

LOCAL RULES OF COURT
FOR THE
UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT
OF TENNESSEE

Amended and Restated as of
August 25, 2000

TABLE OF CONTENTS

PART I

COMMENCEMENT OF CASE; PROCEEDINGS RELATED TO PETITION AND ORDER FOR RELIEF	<u>1</u>
1006-1 <i>Fees - Installment Payments</i>	<u>1</u>
a. Affidavit.	<u>1</u>
b. Failure to Pay.	<u>1</u>
1007-1 <i>Lists, Schedules & Statements</i>	<u>1</u>
a. Alphabetical List of Creditors.	<u>1</u>
b. Late-Filed Statements and Schedules.	<u>1</u>
c. Official Form 6.	<u>1</u>
d. Twenty (20) Largest Unsecured Creditors.	<u>1</u>
e. Service of Petition in Chapter 11 Cases.	<u>2</u>
1007-2 <i>Mailing - List or Matrix</i>	<u>2</u>
a. Matrix Form.	<u>2</u>
b. Filing a Matrix on Diskette.	<u>2</u>
c. Standard Creditor Addresses.	<u>2</u>
1017-1 <i>Conversion - Request for/Notice of</i>	<u>2</u>
1019-1 <i>Conversion - Procedure Following</i>	<u>2</u>
1071-1 <i>Divisions - Bankruptcy Courts</i>	<u>3</u>
1073-1 <i>Assignment of Cases</i>	<u>3</u>

PART II

OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS	<u>4</u>
2002-1 <i>Notice to Creditors & Other Interested Parties</i>	<u>4</u>
a. Notice of Meeting of Creditors Where Schedules and/or Matrix Are Filed Subsequent to the Petition.	<u>4</u>
b. Notice to the State of Tennessee.	<u>4</u>
2002-2 <i>Notice to United States or Federal Agency</i>	<u>5</u>

a. Notice to United States Trustee.	<u>5</u>
b. Notice to Internal Revenue Service.	<u>5</u>
c. Notice to U.S. Securities and Exchange Commission.	<u>5</u>
2003-1 <i>Meeting of Creditors & Equity Security Holders</i>	<u>6</u>
a. Failure of Debtor to Appear at § 341 Meeting of Creditors.	<u>6</u>
b. Notice of Meeting of Creditors Rescheduled upon Debtor’s Request or After Dismissal.	<u>6</u>
c. Continued Meeting of Creditors.	<u>6</u>
2004-1 <i>Depositions & Examinations</i>	<u>6</u>
a. Issuance of Order.	<u>6</u>
b. Form of Examination.	<u>6</u>
2014-1 <i>Employment of Professionals</i>	<u>6</u>
2015-2 <i>Debtor-in-Possession Duties</i>	<u>7</u>
a. Financial Reports.	<u>7</u>
b. Confirmed Chapter 11 Cases.	<u>7</u>
2015-3 <i>Trustees - Reports & Dispositions of Records</i>	<u>7</u>
2016-1 <i>Compensation of Professionals</i>	<u>7</u>
a. Notice of Fee Application - Service Requirements.	<u>7</u>
b. Hearing Scheduled.	<u>8</u>
c. Submission of Order.	<u>8</u>
d. District Court Rules.	<u>8</u>
2082-1 <i>Chapter 12 - General</i>	<u>8</u>
a. Filing a Chapter 12 Plan.	<u>8</u>
b. Notice Requirements for Plan and Confirmation Hearing.	<u>8</u>
c. Order of Confirmation.	<u>8</u>
d. Motions Modifying Chapter 12 Plans.	<u>9</u>
e. Chapter 12 Payments.	<u>10</u>
2090-1 <i>Attorneys - Admission to Practice</i>	<u>10</u>
a. Appearance Before the Court.	<u>10</u>
b. Motions for Permission to Appear <u>Pro Hac Vice</u>	<u>10</u>
c. Local Rules of District Court.	<u>10</u>
2090-2 <i>Attorneys - Discipline & Disbarment</i>	<u>10</u>
a. Jurisdiction of Court to Enforce Standards of Professional Conduct.	<u>10</u>
b. Local Rules of District Court.	<u>11</u>

2091-1	<i>Attorneys - Withdrawals</i>	11
a.	In General.	11
b.	Required Approval for Employment.	11
c.	Local Rules of District Court.	11

PART III

CLAIMS AND DISTRIBUTIONS TO CREDITORS AND EQUITY INTEREST HOLDERS; PLANS [12](#)

3001-1	<i>Claims and Equity Security Interests - General</i>	12
a.	Proof of Perfection.	12
b.	Failure to Comply	12
3004-1	<i>Filing of Claims by Debtor or Trustee</i>	12
3007-1	<i>Claims - Objections</i>	12
3011-1	<i>Unclaimed Funds in Chapter 7, Chapter 12 and Chapter 13 Cases</i>	12
a.	Motions to Withdraw Unclaimed Funds.	12
b.	Compliance with LBR 9013-1.	13
c.	Applicability of LBR 9029-3-Rule 1(h).	13
3015-1	<i>Chapter 13 - Plan</i>	13
3015-2	<i>Chapter 13 - Amendments to Plans</i>	13
a.	In General.	13
b.	Statement of Impact.	13
c.	Service of Motion, Agreed Order or Notice.	14
d.	Proposed Order.	14
3016-2	<i>Disclosure Statement - General</i>	14
a.	Filing Requirements.	14
b.	Notice Requirements.	14
3017-1	<i>Disclosure Statement - Approval</i>	14
3017-2	<i>Disclosure Statement - Small Business Cases</i>	15
3020-1	<i>Chapter 11 - Confirmation</i>	15
3022-1	<i>Final Report/Decree (Ch. 11)</i>	15

3070-1 <i>Chapter 13 - Payments</i>	15
---	--------------------

PART IV

THE DEBTOR: DUTIES AND BENEFITS	16
--	--------------------

4001-1 <i>Automatic Stay - Relief from</i>	16
a. Announcements	16
b. Applicability of LBR 9013-1.	16

4002-1 <i>Debtor - Duties</i>	16
a. Persons to Act when Debtor is not Natural Person.	16
b. Motions to Designate.	16
c. Names and Addresses of Designated Persons.	16

4004-1 <i>Discharge Hearings</i>	16
a. Discharge Hearings.	16
b. Discharge Affidavit.	16

4070-1 <i>Insurance</i>	17
a. Proof of Insurance.	17
b. Definitions.	17
c. Lapse of Insurance.	17
d. Second Lapse of Insurance.	18

PART V

COURTS AND CLERKS	19
--------------------------------	--------------------

5001-1 <i>Court Administration</i>	19
--	--------------------

5001-2 <i>Clerk - Office Location/Hours</i>	19
a. Filing Hours.	19
b. After Business Hours.	19
c. Special Filings.	19
d. Clerk's Mailing Address.	19

5003-1 <i>Clerk - General/Authority</i>	19
---	--------------------

5003-2 <i>Court Papers - Removal of</i>	19
---	--------------------

5005-2 <i>Filing Papers - Number of Copies</i>	19
--	--------------------

5011-1	<i>Motions to Withdraw the Reference</i>	20
a.	Where to File.	20
b.	Documents Filed after the Motion to Withdraw the Reference.	20
5070-1	<i>Pleadings, Motions, Briefs and Subpoenas</i>	20
5072-1	<i>Courtroom Decorum</i>	20
5073-1	<i>Photography, Recording Devices & Broadcasting</i>	21
5076-2	<i>Copies of Depositions or Transcripts Prepared by Court Reporters</i>	21
5081-1	<i>Fees - Form of Payment</i>	21
a.	Transactions Requiring the Payment of Money.	21
b.	Forms of Payment.	21
 PART VI		
COLLECTION AND LIQUIDATION OF THE ESTATE		22
6004-1	<i>Sales of Estate Property</i>	22
a.	Report of Sale.	22
b.	Proposed Sale, Use or Lease of Property.	22
c.	Compensation of Real Estate Agents.	22
6005-1	<i>Appraisers & Auctioneers</i>	22
6007-1	<i>Abandonment</i>	22
a.	No Asset Notice.	22
b.	Property Value.	23
6008-1	<i>Redemption</i>	23
 PART VII		
ADVERSARY PROCEEDINGS		24
7001-1	<i>Adversary Proceedings - General</i>	24
7003-1	<i>Cover Sheet</i>	24
7005-2	<i>Filing of Discovery Material</i>	24

7016-1 <i>Pretrial Procedures</i>	24
a. Form Order.	24
b. District Court Rule.	24
7023-1 <i>Class Actions</i>	24
7026-1 <i>Discovery - General</i>	24
a. Application of <i>Fed. R. Bankr. P. 7026.</i>	24
b. Required Disclosures and Pretrial Disclosures.	24
7054-1 <i>Cost - Taxation/Payment</i>	25
7065-2 <i>Injunctions</i>	26
7067-1 <i>Registry Funds</i>	26
a. Orders Directing Deposit.	26
b. Service of Order on the Clerk.	26
 PART VIII	
APPEALS TO DISTRICT COURT OR BANKRUPTCY APPELLATE PANEL	27
8001-1 <i>Appeals</i>	27
 PART IX	
GENERAL PROVISIONS	28
9001-1 <i>Definitions</i>	28
9004-1 <i>Papers - Requirements of Form</i>	28
a. In general.	28
b. District Court Rule.	28
9004-2 <i>Caption - Papers, General</i>	28
a. In general.	28
b. Adversary Proceedings.	28
9010-1 <i>Attorneys - Notice of Appearance</i>	28
9011-1 <i>Attorneys - Duties</i>	28

9011-2	<i>Pro Se Parties</i>	29
	a. Corporations and Partnerships.	29
	b. Individuals.	29
	c. Compliance with Rules.	29
	d. Child Support Creditors and Representatives.	29
9013-1	<i>Motion Practice</i>	29
	a. "After Notice and a Hearing"	29
	b. Exclusions and Modifications.	30
9013-2	<i>Briefs and Memoranda of Law</i>	32
9013-3	<i>Certificate of Service - Motions</i>	32
	a. In General.	32
	b. Contents of Certificate.	32
9014-1	<i>Contested Matters</i>	32
	a. Pretrial Orders and Conferences.	32
	b. Response Required.	32
	c. Discovery: Application of LBR 7026-1.	33
9015-1	<i>Jury Demand</i>	33
9016-1	<i>Subpoenas</i>	33
9018-1	<i>Secret, Confidential, Scandalous, or Defamatory Matter</i>	33
	a. Sealing Original Document.	33
	b. Motion and Proposed Order.	33
	c. File with Clerk or Chief Deputy.	34
	d. Documents Filed During a Court Hearing.	34
	e. Docketing.	34
	f. Motion for Access to Sealed Documents, Tapes or Other Material.	34
9019-1	<i>Settlements and Agreed Orders</i>	34
	a. Submission of order.	34
	b. District Court Rules.	34
9021-1	<i>Judgments and Orders - Entry of</i>	34
9029-1	<i>Local Rules - General</i>	35
	a. Title and Authority.	35
	b. Citation to Local Rules.	35
	c. District Court Rules.	35

9029-2 <i>Local Rules - General Orders</i>	<u>35</u>
9029-3 <i>Local Rules of District Court</i>	<u>35</u>
9036-1 <i>Electronic Notice</i>	<u>54</u>
9070-1 <i>Exhibits</i>	<u>54</u>
9072-1 <i>Orders - Proposed</i>	<u>54</u>
9075-1 <i>Emergency Orders</i>	<u>54</u>
a. Obtaining Emergency Relief.	<u>54</u>
b. Motions to be Heard on Shortened Notice.	<u>55</u>

APPENDICES

Affidavit for Payment of Filing Fees	APPENDIX A
Matrix Guidelines	APPENDIX B
Order Confirming Chapter 12 Plan	APPENDIX C
Amended Monthly Family Budget and Statement of Impact	APPENDIX D
Notice of Filing Proof of Claim by Debtor [Trustee]	APPENDIX E
Motion to Withdraw Unclaimed Funds	APPENDIX F
Discharge Affidavit	APPENDIX G
Preliminary Pretrial Order	APPENDIX H
Appearance of Child Support Creditor or Representative	APPENDIX I
Authorization to Send Notices via Internet E-mail	APPENDIX J
Appendices to ADR Rules, LBR 9029-3 Rules 20 - 27	APPENDIX K

PART I

COMMENCEMENT OF CASE; PROCEEDINGS RELATED TO PETITION AND ORDER FOR RELIEF

1006-1 *Fees - Installment Payments*

- a. **Affidavit.** Motions to pay the filing fee in installments shall be accompanied by an affidavit following the form in Appendix A.
- b. **Failure to Pay.** Motions to dismiss pursuant to *Fed. R. Bankr. P.* 1017(b) shall only be provided to the debtor, debtor's counsel, trustee and the United States Trustee.

1007-1 *Lists, Schedules & Statements*

- a. **Alphabetical List of Creditors.** The debtor shall file separate lists containing the names and addresses of secured and unsecured creditors in alphabetical order with complete post office addresses, including zip codes.
- b. **Late-Filed Statements and Schedules.**
 - 1. **Service on the Trustee and United States Trustee.** If statements and schedules are not filed with the petition or with the motion for voluntary conversion, the debtor shall serve a copy of the statements and schedules, when filed, on any trustee serving in the case and on the United States Trustee and file a certificate of mailing pursuant to LBR 9013-3. If the late-filed schedules identify creditors not listed on the original matrix filed pursuant to LBR 1007-2a, the debtor shall file an amended matrix containing the names and addresses of the additional creditors.
 - 2. **Caption on Amended or Late-Filed Statements and Schedules.** When statements and schedules are filed with the Clerk after the petition has been filed or if amended statements and schedules are being filed, the pending case number shall be included on the first page. If failure to include the pending case number results in the assignment of a new case number, the Clerk may assess a filing fee.
- c. **Official Form 6.** The debtor in a Chapter 7 case shall include income and expense information for a non-filing spouse on Official Form 6 unless the spouses are separated.
- d. **Twenty (20) Largest Unsecured Creditors.** In a Chapter 11 case, the debtor shall file with the petition a list containing the names and complete post office addresses,

including zip codes, of its twenty (20) largest unsecured creditors in order of the debt outstanding, with the largest debt listed first.

e. **Service of Petition in Chapter 11 Cases.** The debtor or petitioning creditors shall serve a copy of the chapter 11 petition, statements and schedules on the Internal Revenue Service and, if the debtor is a corporation or partnership, on the U.S. Securities and Exchange Commission and file a certificate of mailing pursuant to LBR 9013-3.

1007-2 ***Mailing - List or Matrix***

a. **Matrix Form.** All petitions shall include a list of the names and mailing addresses, including zip codes, of all entities who should receive notice of the bankruptcy proceeding. The matrix shall be in the form prescribed in the "Matrix Guidelines" in Appendix B.

b. **Filing a Matrix on Diskette.** Anyone wishing to file the matrix on a 3½" or 5¼" diskette may obtain a "write only" program from the Clerk. Each diskette can contain only one matrix. Once the information has been loaded into the Clerk's program, the diskette may be retrieved from the Clerk and reused.

c. **Standard Creditor Addresses.** Creditors may direct the Clerk to send all bankruptcy notices to a standard address. Such a request must be filed with the Clerk in writing and include all names identifying the creditor, the standard address, limitations, if any, i.e. for Chapter 13 cases only, and the name, telephone number and signature of a representative of the creditor making the request.

1017-1 ***Conversion - Request for/Notice of***

For motions to convert or dismiss Chapter 11 cases, see LBR 9013-1b.(6).

1019-1 ***Conversion - Procedure Following***

a. **Conversion to a Chapter 7 case.** When a Chapter 11, Chapter 12 or Chapter 13 case has been converted or re-converted to a Chapter 7 case, new lists, inventories, schedules and statement of financial affairs shall be filed by the debtor within 15 days of filing of a notice of conversion or entry of an order of conversion.

b. **Caption on Conversion Statements and Schedules.** When conversion statements and schedules are filed with the Clerk, the pending case number shall be included on the first page. If failure to include the pending case number results in the assignment of a new case number, the Clerk may assess a filing fee.

1071-1 ***Divisions - Bankruptcy Courts***

The provisions of the Local Rules of the District Court pertaining to the divisions of the Bankruptcy Court are included in LBR 9029-3-Rule 5.

1073-1 ***Assignment of Cases***

The provisions of the Local Rules of the District Court pertaining to assignment of cases have not been adopted as stated in LBR 9029-3-Rule 6.

PART II

OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS

2002-1 *Notice to Creditors & Other Interested Parties*

a. Notice of Meeting of Creditors Where Schedules and/or Matrix Are Filed

Subsequent to the Petition. If the schedules of creditors are filed after the petition and matrix required by LBR 1007-2 or, if a matrix is not filed with the petition, the debtor shall provide notice of the § 341 meeting of creditors to any creditors listed on such schedules but not included on the original matrix or to all creditors if a matrix was not filed. The debtor shall file a certificate of mailing pursuant to LBR 9013-3.

b. Notice to the State of Tennessee. Whenever required by the Federal Rules of Bankruptcy Procedure, notice to the State of Tennessee or to its agencies or departments shall be accomplished by notice to the Tennessee Attorney General's Office at the following address:

Re:(Agency or Department Name or Names)
TN Atty General's Office, Bankr. Unit
425 5th Avenue North, Second Floor
Nashville TN 37243

Agencies or departments of the State of Tennessee include, but are not limited to:

TN Department of Revenue
TN Alcoholic Beverage Commission
TN Board of Parole
TN Board of Regents (and member institutions)
TN Housing Development Agency
TN Public Service Commission
TN Secretary of State
TN Student Assistance Corporation
TN Department of Agriculture
TN Department of Commerce and Insurance
TN Department of Consumer Affairs
TN Department of Corrections
TN Department of Economic and Community Development
TN Department of Environment and Conservation
TN Department of Finance and Administration
TN Department of Financial Institutions

TN Department of Health
TN Department of Human Services
TN Department of Labor and Workforce Development
TN Department of Labor and Workforce Development - Division of
Employment Security
TN Department of Mental Health
TN Department of Military
TN Department of Personnel
TN Department of Safety
TN Department of Tourist Development
TN Department of Transportation
TN Department of Veteran's Affairs
TN Department of Youth Development
University of TN (and member institutions)

2002-2 *Notice to United States or Federal Agency*

a. **Notice to United States Trustee.** All notices and pleadings required to be provided to the United States Trustee shall be provided to the office of the Assistant United States Trustee for the Middle District of Tennessee, 701 Broadway, Suite 318, Nashville, Tennessee 37203. Copies need not also be provided to the Memphis office of the United States Trustee.

b. **Notice to Internal Revenue Service.** Notice to the Internal Revenue Service, where required or appropriate, shall be made by the filing party and shall be mailed to the following address:

IRS MDP 146
801 Broadway
Nashville TN 37203

c. **Notice to U.S. Securities and Exchange Commission.** Pursuant to *Fed. R. Bankr. P.* 2002(j), the U.S. Securities and Exchange Commission has requested a copy of the petition, exhibit A, statements and schedules, plan and disclosure statements and notices of hearings for all chapter 9 cases and chapter 11 cases commenced by a corporation or limited partnership. Notice to the U.S. Securities and Exchange Commission, where required or appropriate, shall be made by the filing party and mailed to the following address:

Office of Reorganization
Securities and Exchange Commission
3475 Lenox Rd. N.E., Suite 1000
Atlanta, GA 30326-1232

2003-1 *Meeting of Creditors & Equity Security Holders*

a. **Failure of Debtor to Appear at § 341 Meeting of Creditors.** Failure of the debtor in a voluntary case to appear at a scheduled § 341 meeting of creditors constitutes cause for dismissal of the debtor's case. Upon the filing by the trustee or the United States Trustee of a Report of Nonappearance and Motion to Dismiss, an Order of Dismissal will be entered by the Clerk. Notice of the Motion to Dismiss shall only be provided to the debtor, debtor's counsel, trustee and the United States Trustee.

b. **Notice of Meeting of Creditors Rescheduled upon Debtor's Request or After Dismissal.** When the debtor's case has been dismissed in accordance with paragraph a. and the dismissal is subsequently set aside, or if a meeting of creditors is rescheduled upon request of the debtor, it shall be the responsibility of the debtor or debtor's counsel to obtain another date for the meeting of creditors from United States Trustee or the chapter 13 trustee in chapter 13 cases, and to provide notice of the rescheduled meeting to the trustee, the United States Trustee, all creditors and all parties in interest and file a certificate of mailing in accordance with LBR 9013-3.

c. **Continued Meeting of Creditors.** If a meeting of creditors is adjourned to a later date due to constraints of time, the United States Trustee or the trustee shall announce the date and time of the continued meeting on the record at the previously noticed meeting of creditors. Pursuant to *Fed. R. Bankr. P.* 2003(e), no further notice shall be required.

2004-1 *Depositions & Examinations*

a. **Issuance of Order.** Upon request of any party in interest for the examination of any entity pursuant to *Fed. R. Bankr. P.* 2004, the Clerk shall issue an order directing the examination pursuant to *Fed. R. Bankr. P.* 2004.

b. **Form of Examination.** Upon the request of any party in interest in accordance with paragraph a., above, a *Fed. R. Bankr. P.* 2004 examination may be conducted in any manner consistent with *Fed. R. Civ. P.* 30, 31, 33 or 34 to the extent not inconsistent with *Fed. R. Bankr. P.* 2004.

2014-1 *Employment of Professionals*

Upon the filing with the court of a motion for approval of employment of a professional by the debtor, the trustee, or a committee in a Chapter 11 case, notice of the fee arrangement with such professional shall be given by the movant in accordance with LBR 9013-1 to the debtor, the debtor's attorney, the trustee, the trustee's attorney, the United States Trustee, all secured claim holders, any committee appointed and counsel for such committee, the ten (10) largest unsecured creditors if no unsecured creditors' committee has been appointed, and any party in interest who has filed a written request for notices. The notice must detail the terms of the fee arrangement,

including all information required by 11 U.S.C. § 329 and *Fed. R. Bankr. P.* 2014. If the fee arrangement is detailed in the motion for employment, a copy of such motion may be served in lieu of a separate notice.

2015-2 *Debtor-in-Possession Duties*

a. **Financial Reports.** The trustee or debtor in Chapter 11 cases shall file with the Clerk and the United States Trustee or designee a written report of the financial condition of the estate on the fifteenth (15th) day of each month. Once a plan is confirmed in a Chapter 11 case, the monthly report is no longer required except as set forth in paragraph b.

b. **Confirmed Chapter 11 Cases.** In Chapter 11 cases with a confirmed plan and until entry of a final decree closing the case, the reorganized debtor shall file with the Clerk within thirty (30) days after the effective date of the plan and, thereafter on March 15 and September 15 of each year, a report concerning the action taken and the progress made toward consummation of the plan.

2015-3 *Trustees - Reports & Dispositions of Records*

In compliance with 11 U.S.C. § 704(8), the report and summary of operation required to be filed with any governmental unit charged with responsibility for collection or determination of any tax arising out of such operation shall be forwarded to:

IRS:	IRS MDP 146 801 Broadway Nashville TN 37203
------	---

State of TN Department of Revenue:	State of TN Dept of Rev Legal Office 312 8 th Ave N 27 th Fl Nashville TN 37243
---------------------------------------	--

State of TN:	TN Atty General's Office Bankruptcy Unit 425 5 th Avenue North, Second Floor Nashville TN 37243
--------------	---

2016-1 *Compensation of Professionals*

a. **Notice of Fee Application - Service Requirements.** Any professional or other party who files a motion for fees, compensation or reimbursement of expenses shall file and

serve a notice in accordance with LBR 9013-1 on the debtor, the debtor's attorney, the trustee, the trustee's attorney, the United States Trustee, all secured claim holders, any committee appointed and counsel for such committee, the ten (10) largest unsecured creditors if no unsecured creditors committee has been appointed, and any party in interest who has filed a written request for notices.

b. **Hearing Scheduled.** A hearing will be scheduled only if an objection is filed.

c. **Submission of Order.** If no timely objection to the motion is filed, the movant shall submit an order pursuant to LBR 9013-1a.(5) that separately states the amount of fees, compensation and reimbursement of expenses.

d. **District Court Rules.** The provisions of the Local Rules of the District Court pertaining to attorneys' fees are included as modified in LBR 9029-3-Rule 13.

2082-1 *Chapter 12 - General*

a. **Filing a Chapter 12 Plan.** If a debtor elects to file a plan after the filing of the petition pursuant to *Fed. R. Bankr. P.* 3015, the debtor must serve the proposed plan or a complete summary of the proposed plan on all creditors, all equity security holders, any party in interest who has requested notice, the Chapter 12 trustee and the United States Trustee and file a certificate of service pursuant to LBR 9013-3.

b. **Notice Requirements for Plan and Confirmation Hearing.**

1. The debtor shall file with the Court an original and two (2) copies of the plan, together with a proposed order and notice of hearing. The order and notice shall include the date the plan was filed; the date, time and place of the confirmation hearing; and the last date to file and serve written objections to the plan.
2. Upon entry by the Court of the order and notice setting a time for the confirmation hearing, the debtor shall serve a copy of said order, together with a copy of the plan or a complete summary, on the trustee, the United States Trustee, all creditors, all equity security holders and any party in interest who has requested notice.
3. Unless the Court fixes a shorter period, notice of the hearing shall be given not less than fifteen (15) days before the hearing.

c. **Order of Confirmation.** The debtor shall submit a proposed order confirming Chapter 12 plan, conforming substantially to the form in Appendix C. Upon entry by the

Court of the order confirming Chapter 12 plan, a copy of said order shall be served by the debtor on the trustee, the United States Trustee, all creditors, all equity security holders and any party in interest who has requested notice.

d. Motions Modifying Chapter 12 Plans.

1. **In General.** In addition to the requirements of LBR 9013-1, any motion or agreed order filed by the debtor that amends or modifies a proposed or confirmed Chapter 12 plan must include a verified comparative budget and a Statement of Impact on creditors in the form of Appendix D. Any motion filed by the trustee or a creditor that amends or modifies a proposed or confirmed Chapter 12 plan must include a Statement of Impact. Any objection filed by the debtor pursuant to LBR 9013-1 shall include a verified comparative budget and Statement of Impact in the form of Appendix D. This provision includes but is not limited to motions and agreed orders to:
 - (A) suspend payments;
 - (B) incur credit;
 - (C) increase or decrease payments; or
 - (D) amend or modify a proposed or confirmed plan.
2. **Statement of Impact.** The Statement of Impact shall include the following disclosures:
 - (A) a clear statement of the modification or the amendment with specific reference to the provisions of the plan, if unconfirmed, or the order of confirmation, if confirmed, that are being amended or modified;
 - (B) any change in the dividend to be paid to unsecured creditors;
 - (C) any change in the time for final payment under the plan;
 - (D) any change in the payroll deduction; and
 - (E) any effect on the treatment of secured creditors under the plan.
3. **Service of Motion, Agreed Order or Notice.** For purposes of LBR 9013-1, the parties entitled to service of any motion or agreed order that amends or modifies a proposed or confirmed Chapter 12 plan and of any related notice shall be the Chapter 12 trustee, the United States Trustee, all creditors, all equity security

holders, and any other party in interest that has requested notice in the case.

4. **Proposed Order.** Any proposed order or agreed order that amends or modifies a proposed or confirmed Chapter 12 plan must restate the terms of the amendment or modification as indicated in the Statement of Impact.

e. **Chapter 12 Payments.** All fees, compensation or reimbursement of expenses of attorneys approved by the Court, either in the order confirming the Chapter 12 plan or upon special motion which are to be paid from property of the estate shall be classified as an administrative expense, paid after the filing fee, and continuing alimony and support payments, but ahead of payments to all other creditors. Unless the confirmed plan provides otherwise, the distributions to attorneys who have received no compensation prior to the filing of the petition shall be limited to a first payment of \$125 (inclusive of expenses) plus additional payments of ten percent (10%) of disbursements until the approved attorney's fee is paid in full.

2090-1 *Attorneys - Admission to Practice*

a. **Appearance Before the Court.** Except as set forth below, appearance before the Court on behalf of any entity may be made only by an attorney admitted to the bar of, or permitted to practice before, the United States District Court for the Middle District of Tennessee.

b. **Motions for Permission to Appear Pro Hac Vice.** Any attorney not entitled to practice before the United States District Court for the Middle District of Tennessee shall file a motion and proposed order with the United States Bankruptcy Court for the Middle District of Tennessee for permission to appear *pro hac vice*, attach a certificate of good standing as required by LBR 9029-3-Rule 1(d) **and obtain local counsel pursuant to LBR 9029-3-Rule 1(h).**

c. **Local Rules of District Court.** The provisions of the Local Rules of the United States District Court pertaining to attorney admissions are included in LBR 9029-3-Rule 1.

2090-2 *Attorneys - Discipline & Disbarment*

a. **Jurisdiction of Court to Enforce Standards of Professional Conduct.** Any attorney who appears for any purpose submits to the discipline of the Court and may, for good cause shown, be suspended from practice in this Court for a definite time, reprimanded or subjected to such other discipline as the Court may deem appropriate.

b. **Local Rules of District Court.** The provisions of the Local Rules of the United States District Court pertaining to attorney discipline and disbarment are included in LBR 9029-3-Rule 1.

2091-1 *Attorneys - Withdrawals*

a. **In General.** Whenever an attorney has appeared on behalf of an entity in any case or proceeding within a case, the entity may not thereafter appear *pro se* or by a different attorney in that case or proceeding except upon order of the Court made after notice to such attorney (if substituting counsel), the debtor, the United States Trustee, any trustee, any committees which may have been appointed, and any party who has requested notice. In addition, a withdrawing counsel shall comply with LBR 9029-3-Rule 1(g).

b. **Required Approval for Employment.** In all situations where the attorney that is withdrawing was required to be approved for appointment pursuant to 11 U.S.C. §§ 327 or 1103, any new attorney must comply with *Fed. R. Bankr. P.* 2014 and LBR 2014-1.

c. **Local Rules of District Court.** The provisions of the Local Rules of the United States District Court pertaining to attorney withdrawal and substitution are included in LBR 9029-3-Rule 1.

PART III

**CLAIMS AND DISTRIBUTIONS TO CREDITORS
AND EQUITY INTEREST HOLDERS; PLANS**

3001-1 *Claims and Equity Security Interests - General*

- a. **Proof of Perfection.** Prior to the meeting of creditors in Chapter 7, 12 and 13 cases, all creditors asserting a security interest in property of the estate or property of the debtor shall submit to the trustee proof that the asserted security interest has been perfected in accordance with applicable law.
- b. **Failure to Comply.** In the event that the holder of a secured claim does not comply with the provisions of paragraph a.. above, and the trustee notifies said creditor in writing that it has failed to comply with the rule, the trustee shall be entitled to recover any costs (including reasonable attorney's fees) related to the filing and/or preparation of an adversary proceeding against the creditor, if said creditor has failed to cure its noncompliance with paragraph a. above, within twenty (20) days of service of notice by the trustee.

3004-1 *Filing of Claims by Debtor or Trustee*

When the debtor or trustee elects to file a proof of claim pursuant to *Fed. R. Bankr. P.* 3004, the Notice of Filing of Proof of Claim by Debtor [Trustee] in the form of Appendix E must be completed and filed with each proof of claim.

3007-1 *Claims - Objections*

The provisions regarding objections to claims are included in LBR 9013-1b.(3).

3011-1 *Unclaimed Funds in Chapter 7, Chapter 12 and Chapter 13 Cases*

- a. **Motions to Withdraw Unclaimed Funds.** A motion to withdraw unclaimed funds shall be in the form of Appendix F. The motion must comply with the requirements of 28 U.S.C. § 2042 and state under penalty of perjury:
- (1) That the applicant has conducted a reasonable investigation;
 - (2) That the money is owed to the claimant;
 - (3) That the funds sought have not been paid to the claimant or to any other agent on the claimant's behalf;
 - (4) That the applicant has authority to collect the funds on behalf of the claimant; and
 - (5) That no other application is pending for recovery of the same unclaimed funds.

b. **Compliance with LBR 9013-1.** A party filing a motion to withdraw unclaimed funds shall file and serve a notice in accordance with LBR 9013-1 on the debtor, the debtor's attorney, the trustee, the United States Trustee, the United States Attorney and the creditor for whom the funds were deposited. The notice to the creditor shall be mailed to the last address for the creditor listed in the court's records.

c. **Applicability of LBR 9029-3-Rule 1(h).** The requirements for local counsel apply to motions to withdraw unclaimed funds.

3015-1 *Chapter 13 - Plan*

If a debtor elects to file a plan after the filing of the petition pursuant to *Fed. R. Bankr. P. 3015*, the debtor must serve the proposed plan or a complete summary of the proposed plan on each creditor, any party in interest who has requested notice, the Chapter 13 trustee and the United States Trustee and file a certificate of service pursuant to LBR 9013-3.

3015-2 *Chapter 13 - Amendments to Plans*

a. **In General.** In addition to the requirements of LBR 9013-1, any motion or agreed order filed by the debtor that amends or modifies a proposed or confirmed Chapter 13 plan must include a verified comparative budget and Statement of Impact on creditors in the form of Appendix D. Any motion filed by the trustee or a creditor that amends or modifies a proposed or confirmed Chapter 13 plan must include a Statement of Impact. Any objection filed by the debtor pursuant to LBR 9013-1 shall include a verified comparative budget and Statement of Impact in the form of Appendix D. This provision includes but is not limited to motions and agreed orders to:

- (1) suspend payments;
- (2) incur credit;
- (3) increase or decrease payments; or
- (4) amend or modify a proposed or confirmed plan.

b. **Statement of Impact.** The Statement of Impact shall include the following disclosures:

- (1) a clear statement of the modification or the amendment with specific reference to the provisions of the plan, if unconfirmed, or the order of confirmation, if confirmed, that are being amended or modified;
- (2) any change in the dividend to be paid to unsecured creditors;

- (3) any change in the time for final payment under the plan;
- (4) any change in the payroll deduction; and
- (5) any effect on the treatment of secured creditors under the plan.

c. **Service of Motion, Agreed Order or Notice.** For purposes of LBR 9013-1, the parties entitled to service of any motion or agreed order that amends or modifies a proposed or confirmed Chapter 13 plan and of any related notice shall be the Chapter 13 trustee, the United States Trustee, all creditors and any other party in interest that has requested notice in the case.

d. **Proposed Order.** Any proposed order or agreed order that amends or modifies a proposed or confirmed Chapter 13 plan must restate the terms of the amendment or modification as indicated in the Statement of Impact.

3016-2 ***Disclosure Statement - General***

a. **Filing Requirements.** The proponent of a plan shall file with the Clerk an original and two (2) copies of the proposed disclosure statement and plan, together with a proposed order and notice of hearing.

b. **Notice Requirements.** Upon entry by the Clerk of the order and notice setting a time for hearing on the adequacy of the disclosure statement, a copy of said order shall be served by the proponent of the plan upon the debtor, the debtor's attorney, the United States Trustee, the trustee and trustee's attorney, if any, all creditors, all equity security holders, any party in interest who has filed a written request for notice, and any entity entitled to notice pursuant to *Fed. R. Bankr. P.* 2002(i) and (j). In addition, the proponent shall serve with the order a copy of the proposed disclosure statement and plan upon the debtor, the debtor's attorney, the United States Trustee, the trustee and trustee's attorney, if any, any committee appointed under the Code and counsel for said committee, all secured creditors, the Internal Revenue Service, the Securities and Exchange Commission, if debtor is a corporation or partnership, and any party in interest who requests in writing a copy of the disclosure statement or plan.

3017-1 ***Disclosure Statement - Approval***

Upon entry by the Court of the order approving the disclosure statement, the proponent of the plan shall distribute copies of the order, the approved disclosure statement, the plan, notices required pursuant to *Fed. R. Bankr. P.* 3017 and the ballot conforming to the appropriate Official Form to the debtor, attorney for the debtor, United States Trustee, the trustee and trustee's attorney, if any, all creditors and equity security holders and any party in interest who has filed a written request for notice.

3017-2 *Disclosure Statement - Small Business Cases*

Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given by the plan proponent in accordance with *Fed. R. Bankr. P. 2002* and shall be combined with notice of the hearing on confirmation of the plan.

3020-1 *Chapter 11 - Confirmation*

Upon entry by the Court of the order confirming the plan, a copy of said order shall be served by the plan proponent upon the debtor, debtor's attorney, the trustee and trustee's attorney, if any, the United States Trustee, all creditors, all equity security holders, any entity required to receive notice pursuant to *Fed. R. Bankr. P. 2002(i)* and (j), and any party in interest who has filed a written request for notice.

3022-1 *Final Report/Decree (Ch. 11)*

With the motion for a final decree pursuant to *Fed. R. Bankr. P. 3022*, the debtor shall file a final report certifying the disbursements made under the plan and serve a copy of the motion for a final decree and final report in accordance with LBR 9013-1 upon the United States Trustee, all creditors, all equity security holders, any party in interest who has filed a written request for notice, and any entity entitled to notice pursuant to *Fed. R. Bankr. P. 2002(i)* and (j). Absent an objection, the case will be deemed properly administered.

3070-1 *Chapter 13 - Payments.*

All fees, compensation or reimbursement of expenses of debtors' attorneys in Chapter 13 cases which are to be paid from property of the estate shall be approved by the court, either in the order confirming the Chapter 13 plan or upon special motion. Unless the confirmed plan provides otherwise, payments to attorneys shall be classified as an administrative expense and paid after the filing fee and continuing alimony and support payments. Unless the confirmed plan provides otherwise, the distributions to attorneys who have received no compensation prior to the filing of the petition shall be a first payment of \$175 (inclusive of expenses) plus additional payments of twelve and one-half percent (12.5%) of disbursements until the approved attorney's fee is paid in full. Attorneys will be reimbursed for actual expenses incurred in mailing notices in an amount not to exceed \$0.75 per notice, but only upon receipt by the trustee of the certificate of service filed pursuant to LBR 9013-3.

PART IV

THE DEBTOR: DUTIES AND BENEFITS

4001-1 *Automatic Stay - Relief from*

- a. **Announcements.** All motions for relief from the stay which are set in the Nashville Division for preliminary hearing on a particular day will be called in Courtroom One, Second Floor Customs House, 701 Broadway, at 8:30 a.m. for announcements.
- b. **Applicability of LBR 9013-1.** The provisions of LBR 9013-1 are inapplicable to motions for stay relief. See LBR 9013-1b.(1).

4002-1 *Debtor - Duties*

- a. **Persons to Act when Debtor is not Natural Person.** The natural persons occupying the following positions shall perform any and all acts required to be performed by the debtor and shall attend on behalf of the debtor any examinations, meetings or hearings unless the Court orders otherwise:
 - (a) If the debtor is a corporation, the person serving as its chief executive officer (the person occupying the position of president is presumed to be chief executive officer), or
 - (b) If the debtor is a partnership, each of the general partners.
- b. **Motions to Designate.** If any corporate or partnership debtor deems the persons designated above inappropriate, prompt motion shall be made consistent with LBR 9013-1 for relief from this rule and for the designation of some other natural person or persons.
- c. **Names and Addresses of Designated Persons.** No later than fifteen (15) days after entry of the order for relief, the natural person or persons who occupy the positions designated above shall be identified by name, title and address.

4004-1 *Discharge Hearings*

- a. **Discharge Hearings.** In all Chapter 7, 12 and 13 cases in which the debtor is an individual, the debtor shall attend the showing of a videotape at the meeting of creditors docket.
- b. **Discharge Affidavit.** If the meeting of creditors has been conducted other than in person, in lieu of attending the showing of a videotape, the debtor's attorney may file a discharge affidavit in the form of Appendix G.

4070-1 *Insurance*

a. **Proof of Insurance.** Whenever the debtor elects, either by making payments through a plan, by making adequate protection payments or by entering into a reaffirmation agreement, to retain a motor vehicle which is subject to the lien of a creditor holding an allowed secured claim, proof of insurance against physical damage and loss must be furnished to the trustee and the creditor at or before the 11 U.S.C. § 341 meeting. Failure to furnish proof of insurance shall be presumed to mean no insurance is in effect. The proof of insurance must state that coverage will continue in force for at least sixty (60) days from the date of the 11 U.S.C. § 341 meeting. On or before the date the insurance coverage lapses, proof of renewal or new insurance coverage must be provided to the trustee and the creditor.

b. **Definitions.**

- (1) **"Motor Vehicle"** shall include every item of transportation which is subject to registration pursuant to TENN. CODE ANN. § 55-3-101; provided, however, that the items of transportation excluded from the registration requirements as set forth in TENN. CODE ANN. §§ 55-3-101(a)(1) through (7) are not excluded for the purposes of this rule.
- (2) **"Proof of Insurance"** shall mean a certificate of insurance or such other written evidence of sufficient reliability from the insurance carrier stating that insurance is in force, the amounts and types of coverage, a notation of the secured party as loss payee, and the time period for which such coverage exists.

c. **Lapse of Insurance.** If during the pendency of a case, insurance lapses on any motor vehicle subject to the provisions of this rule:

- (1) A creditor with an allowed claim secured by the motor vehicle for which insurance has lapsed shall notify, in writing, the debtor and the debtor's attorney of such lapse of insurance. Service of such notice upon the debtor and the debtor's attorney shall be in the manner specified in *Fed. R. Bankr. P. 7004(b)(9)*.
- (2) The debtor shall be enjoined from using the motor vehicle for which insurance has lapsed as long as the motor vehicle remains uninsured.
- (3) If the debtor fails to provide proof of re-insurance to the creditor within three (3) business days following delivery of the notice provided in subsection (1) of this section, the debtor shall surrender the motor vehicle to the creditor or the creditor may take possession of the motor vehicle securing its claim and hold the same pending presentation of proof of insurance by the debtor. For the purposes of this rule, delivery is deemed complete three (3) days after mailing.

- (4) Within five (5) days after taking possession of a motor vehicle pursuant to subsection (3) of this section, the creditor shall file a motion for relief from the stay of 11 U.S.C. § 362.

d. **Second Lapse of Insurance.** In the event insurance on a motor vehicle subject to this rule lapses twice during the pendency of a case, the Court may, upon the filing of a motion in accordance with paragraph c.(4) above, accompanied by an affidavit evidencing compliance by the creditor with the provisions of this rule and evidencing the previous lapse of insurance coverage, grant the creditor relief, including relief from the stay of 11 U.S.C. § 362, without further hearing. The creditor shall include a proposed order granting the requested relief.

PART V
COURTS AND CLERKS

5001-1 *Court Administration*

The provisions of the Local Rules of the District Court pertaining to use of courtrooms are included in LBR 9029-3-Rule 4.

5001-2 *Clerk - Office Location/Hours*

- a. **Filing Hours.** The Clerk's office will accept filings Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. After 3:00 p.m., if a filed copy is to be returned, only one such copy will be stamped.
- b. **After Business Hours.** After 4:00 p.m. and before 12:00 midnight on business days, documents may be left in the drop box located at the rear entrance of the building. Documents placed in the box by midnight will be filed stamped with that day's date.
- c. **Special Filings.** Any party needing to file documents with the Clerk outside of the regular filing hours indicated in paragraphs (a) and (b) above must make advance arrangements for the late filing with the Clerk or the Chief Deputy.
- d. **Clerk's Mailing Address.** Any document mailed to the Clerk's Office shall be sent to the following address:

United States Bankruptcy Court for the Middle District of Tennessee
PO Box 24890
Nashville, Tennessee 37202-489090

5003-1 *Clerk - General/Authority*

The provisions of the Local Rules of the District Court pertaining to release of information and the Clerk of court are included in part in LBR 9029-3-Rules 3 and 7.

5003-2 *Court Papers - Removal of*

The provisions of the Local Rules of the District Court pertaining to removal of court files are included in LBR 9029-3-Rule 7.

5005-2 *Filing Papers - Number of Copies*

An original and two (2) copies of all petitions shall be filed with the Clerk. An

original and two (2) copies of all motions, pleadings and other documents in all cases and proceedings shall be filed with the Clerk except that the following documents require an original only: orders, reaffirmation agreements (copy, not original), notices, discharge affidavits and proof of claim forms in Chapter 7 and Chapter 11 cases. An original and one (1) copy of the proof of claim form in Chapter 12 and Chapter 13 cases and the Chapter 7 report of trustee shall be filed with the Clerk. If a filed copy is to be returned, one copy in addition to the copies required by this Rule must be submitted to the Clerk. If the copy is to be mailed to the party filing the document, a self-addressed, stamped envelope must be provided. Service on the United States Trustee, the Internal Revenue Service or the U. S. Securities and Exchange Commission, when required or appropriate, shall be made by the filing party.

5011-1 *Motions to Withdraw the Reference*

a. **Where to File.** Motions for withdrawal in whole or in part of the reference of a case or proceeding pursuant to 28 USC § 157(d) and District Court Administrative Order 28-7 shall be filed with the Clerk of the Bankruptcy Court. In addition, all such motions shall clearly and conspicuously state that "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE."

b. **Documents Filed after the Motion to Withdraw the Reference.** All documents pertaining to the motion to withdraw the reference (after the motion) shall be filed with the Clerk of the District Court. All documents relating to other aspects of the bankruptcy case or adversary proceeding or contested matter shall be filed in the normal manner with the Clerk of the Bankruptcy Court.

5070-1 *Pleadings, Motions, Briefs and Subpoenas*

The provisions of the Local Rules of the District Court pertaining to calendars and scheduling are included in part in LBR 9029-3-Rule 8.

5072-1 *Courtroom Decorum*

The following procedures shall apply during all hearings:

- a. During Court proceedings all attorneys shall stand when speaking.
- b. Attorneys shall stand behind the lectern.
- c. There shall be no oral confrontation or colloquy between opposing attorneys.
- d. All persons, whether counsel, parties or witnesses, shall be formally addressed by their surnames.

- e. During the testimony of a witness, attorneys shall not approach the witness box, courtroom deputy or the electronic court reporter without the Court's approval.
- f. Documentary exhibits shall be prepared in quadruplicate, one for the witness, the Court, opposing counsel and the examining attorney.
- g. When a witness takes the stand, the examining attorney shall read such background information as he or she desires to give concerning the witness and the connection of the witness to the litigation, and then shall solicit a response from the witness as to the correctness thereof. The second question should address the issues in controversy.

5073-1 *Photography, Recording Devices & Broadcasting*

The provisions of the Local Rules of the District Court pertaining to photography, recording devices and broadcasting are included in LBR 9029-3-Rule 2.

5076-2 *Copies of Depositions or Transcripts Prepared by Court Reporters*

The provisions of the Local Rules of the District Court pertaining to court reporters and transcripts are included in LBR 9029-3-Rule 7.

5081-1 *Fees - Form of Payment*

a. **Transactions Requiring the Payment of Money.** Any transaction requiring the payment of money to the Clerk shall be conducted no later than 4:00 p.m. unless payment is left in the drop box pursuant to LBR 5001-2 or other arrangements are made in advance with the Clerk or Chief Deputy.

b. **Forms of Payment.** The Clerk will accept the following forms of payment:

- I. cash--exact change only;
- ii. cashier's check;
- iii. money order; or
- iv. checks from attorneys or businesses (but not from a debtor).

No personal checks will be accepted. Checks shall be made payable to "Clerk, U.S. Bankruptcy Court."

PART VI

COLLECTION AND LIQUIDATION OF THE ESTATE

6004-1 *Sales of Estate Property*

a. **Report of Sale.** The trustee shall file a report of sale and serve a copy of the report on the debtor and the United States Trustee. The report shall include an itemized statement of the property sold, list of bidders, the name of each purchaser, and the price received for each item or lot or for the property as a whole, if sold in bulk, and shall further state the date, time and place of the sale. The report shall include a calculation of compensation allowable under the order of appointment and copies of the sale advertisement along with a summary listing of all advertising expenses, sign expenses, per item mailing costs and postage expenses.

b. **Proposed Sale, Use or Lease of Property.** Any notice or motion to sell, lease or use property as provided in 11 U.S.C. § 363 must comply with LBR 9013-1.

c. **Compensation of Real Estate Agents.** Any order appointing a real estate agent to conduct a sale of real property shall fix the compensation which shall not exceed six percent (6%) on the first \$100,000 and four percent (4%) on the balance of the proceeds of the sale, plus reasonable expenses. Compensation in excess of these amounts shall be allowed only upon special motion after notice to all creditors pursuant to LBR 2016-1 and only in extraordinary circumstances.

6005-1 *Appraisers & Auctioneers*

Any order appointing an auctioneer to conduct a sale shall fix the compensation as follows:

real property:	ten percent (10%) commission
vehicles:	ten percent (10%) commission
other personal property:	twenty-five percent (25%) commission on the first \$20,000; ten percent (10%) commission on the balance

No expenses shall be reimbursed to the auctioneer.

Compensation in excess of these amounts shall be allowed only upon special motion after notice pursuant to LBR 2016-1 and only in extraordinary circumstances.

6007-1 *Abandonment*

a. **No Asset Notice.** In cases in which a no asset notice is issued and not superseded by

an asset notice, the trustee or debtor is relieved of the requirement of giving notice of abandonment or disposition of property under *Fed. R. Bankr. P.* 6007(a).

b. **Property Value.** The trustee or debtor is relieved of the notice requirement imposed by *Fed. R. Bankr. P.* 6007(a) where the proposed abandonment relates to property of the estate with a value to the estate of less than \$1,000 per item and less than \$2,500 in the aggregate.

6008-1 ***Redemption***

A Motion for Redemption shall be accompanied by an affidavit or declaration under penalty of perjury containing an estimate of the fair market value for the property to be redeemed.

PART VII

ADVERSARY PROCEEDINGS

7001-1 *Adversary Proceedings - General*

The provisions of the Local Rules of the District Court pertaining to trial procedure have not been adopted as stated in LBR 9029-3-Rule 12.

7003-1 *Cover Sheet*

An original and one copy of the Adversary Cover Sheet in the form prescribed by the Administrative Office of the United States Courts must be completed and filed with each complaint.

7005-2 *Filing of Discovery Material*

Certain provisions of the Local Rules of the District Court pertaining to discovery are included in LBR 9029-3-Rules 9 and 10.

7016-1 *Pretrial Procedures*

- a. **Form Order.** A Preliminary Pretrial Order in the form of Appendix H must be completed and filed with each complaint.
- b. **District Court Rule.** The provisions of the Local Rules of the District Court pertaining to pretrial procedures have not been adopted as stated in LBR 9029-3-Rule 11.

7023-1 *Class Actions*

The provisions of the Local Rules of the District Court pertaining to class actions are included in LBR 9029-3-Rule 15.

7026-1 *Discovery - General*

- a. **Application of *Fed. R. Bankr. P. 7026*.** Subsections (a), (d) and (f) of *Fed. R. Bankr. P. 7026* do not apply in adversary proceedings and contested matters in the bankruptcy courts of this district.
- b. **Required Disclosures and Pretrial Disclosures.** When required by these rules or by an order or notice, discovery in all contested matters and adversary proceedings shall include the following:

- (1) Required Disclosures. Without waiting for a discovery request, every party shall provide to every other party the information listed below. A party shall make these Required Disclosures based on the information then reasonably available to it and is not excused from these Required Disclosures because it has not fully completed its investigation or because it challenges the sufficiency of another party's disclosure or because another party has not made its disclosures.
 - (i) The name, address and telephone number of each individual likely to have discoverable information relevant to the adversary proceeding or contested matter, identifying the subject(s) of the information;
 - (ii) A copy of, or a description by category and location of, all documents, data compilations and tangible things in the possession, custody or control of the party that are relevant to the adversary proceeding or contested matter;
 - (iii) The identity of any person who may be used at trial as an expert witness under Rules 702, 703 or 705 of the *Federal Rules of Evidence*. This disclosure shall be accompanied by a written report prepared and signed by the witness. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness; the compensation to be paid for the testimony and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.
- (2) Pretrial Disclosures. In addition to the disclosures required by paragraph (1) above, every party shall provide to every other party the following information regarding evidence it may present at a hearing or trial (other than solely for impeachment purposes):
 - (i) The name, address and telephone number of each witness the party expects to present or may call if the need arises;
 - (ii) A copy of the transcript of testimony or affidavit of any witness whose testimony will be offered in that form;
 - (iii) A list and copy, with appropriate identification, of each document or other exhibit a party expects to offer or may offer as evidence.

7054-1 ***Cost - Taxation/Payment***

The provisions of the Local Rules of the District Court pertaining to taxation of costs are included as modified in LBR 9029-3-Rule 13.

7065-2 *Injunctions*

The provisions of the Local Rules of the District Court pertaining to injunctions have not been adopted as stated in LBR 9029-3-Rule 8.

7067-1 *Registry Funds*

a. **Orders Directing Deposit.** All orders for the deposit or disbursement of registry funds shall contain the following:

- (1) the amount to be invested;
- (2) a designation of the local financial institution;
- (3) the type of account to be used;
- (4) the name, address and employer identification number or social security number of each party receiving disbursement; and
- (5) a provision which directs the Clerk to deduct from the income earned on the investment a fee, as set by the Director of the Administrative Office and authorized by the Judicial Conference of the United States.

The fee will be deducted when funds are withdrawn and distributed.

b. **Service of Order on the Clerk.** A copy of the order directing deposit and the funds to be deposited shall be served personally upon the Clerk or the Chief Deputy. Absent such personal service, the Clerk is relieved of personal responsibility relative to compliance with the order of deposit or disbursement of registry funds.

PART VIII

APPEALS TO DISTRICT COURT OR BANKRUPTCY APPELLATE PANEL

8001-1 *Appeals*

The provisions of the Local Rules of the District Court pertaining to appeals have not been adopted as stated in LBR 9029-3-Rules 17 and 18.

PART IX
GENERAL PROVISIONS

9001-1 ***Definitions***

As used herein, the term "debtor" includes the singular, the plural and debtor-in-possession.

9004-1 ***Papers - Requirements of Form***

- a. **In general.** Motions shall state with specificity the relief requested and identify the parties and the property involved. Proposed orders shall specifically describe the motion to which it relates.
- b. **District Court Rule.** The provisions of the Local Rules of the District Court pertaining to the form of papers are included as modified in LBR 9029-3-Rule 8.

9004-2 ***Caption - Papers, General***

- a. **In general.** All documents filed with the Clerk must include in the caption the bankruptcy case number, the chapter under which the case is proceeding and the name of the Judge to whom the case has been assigned. The caption shall include a specific designation of the character of the document. Any objection filed pursuant to these rules shall include in the caption the motion or notice to which the objection relates.
- b. **Adversary Proceedings.** The caption for all pleadings, motions, briefs and other documents filed in all adversary proceedings must include the adversary proceeding number in addition to the requirements of paragraph a. above. Any objection filed pursuant to these rules shall include in the caption the motion or notice to which the objection relates.

9010-1 ***Attorneys - Notice of Appearance***

The provisions of the Local Rules of the District Court pertaining to the appearance of an attorney are included as modified in LBR 9029-3-Rule 1.

9011-1 ***Attorneys - Duties***

An attorney requesting a change of address for the attorney's office must file a written request with the Clerk. The attorney shall include with the request a list of all cases in which the attorney has made an appearance.

9011-2 *Pro Se Parties*

- a. **Corporations and Partnerships.** A corporation or partnership may not file a petition or otherwise appear without counsel in any case or proceeding, except that it may file a proof of claim or a reaffirmation agreement, if signed by an authorized officer or agent.
- b. **Individuals.** Any person representing himself or herself without an attorney must appear personally for such purpose. The representation may not be delegated to any other person.
- c. **Compliance with Rules.** Any person appearing *pro se* will be required to comply with these Local Bankruptcy Rules, the *Federal Rules of Bankruptcy Procedure*, the *Federal Rules of Civil Procedure*, and the *Federal Rules of Evidence*.
- d. **Child Support Creditors and Representatives.** Notwithstanding paragraph b. above, a child support creditor or representative may appear and intervene in all cases and proceedings upon the filing of the form attached as Appendix I.

9013-1 *Motion Practice*

- a. **"After Notice and a Hearing"** Whenever Title 11 of the U.S. Code authorizes an act "after notice and a hearing" or similar phrase or whenever notice of a proposed action is otherwise required,
 - (1) Movant or the parties to an agreed order shall file and serve notice of any proposed action together with a copy of the motion or proposed agreed order in the form prescribed by LBR 9004-1a. on the parties required to receive notice pursuant to the *Federal Rules of Bankruptcy Procedure*.
 - (2) Unless the Code or Rules provide otherwise or unless the Court alters the notice period, the notice shall provide for a twenty (20) day objection period to run from the placing of the notice in the U.S. mail, postage prepaid. The notice shall require that objections be filed in writing in the manner specified in paragraph (d) below.
 - (3) Movant or a party to the agreed order shall file with the Clerk a certificate of mailing including a copy of the notice with attachments pursuant to LBR 9013-3.
 - (4) Any party in interest who objects to the proposed action must file a timely written objection in the form prescribed by LBR 9004-2a. or b. with the Clerk and serve a copy of such objection on the movant, the trustee, if one has been appointed, and the United States Trustee. **If the notice included a hearing date for objections, that hearing date shall appear in the opening paragraph of the objection.** If a

hearing date is not included in the notice, the Clerk shall provide notice of the hearing on any objections to counsel for movant. Counsel for movant shall serve notice of the hearing on the debtor, debtor's attorney, all parties filing objections and all parties requesting notice. If a timely objection to a proposed action under this rule is filed and served, LBR 7026-1 shall be applicable as provided in LBR 9014-1.

- (5) If no timely objection to a proposed action is filed, movant shall submit a proposed order or the agreed order in the form prescribed by LBR 9004-1a. to the Clerk **after expiration of the time for filing objections**. The order shall include a statement or be accompanied by the movant's declaration attesting to compliance with this rule. If no timely objection to a proposed action under this rule is filed and served, LBR 7026-1 shall not apply.
- (6) After the order has been signed and received for entry, the party submitting the order shall serve a copy of the signed order on the parties required to receive notice. This requirement of separate service of the order is waived if the notice mailed pursuant to paragraph (1) of this rule included the material provisions of the order and no timely objection was filed pursuant to paragraph (4) of this rule.
- (7) In lieu of service of a notice of proposed action or of an agreed order, the movant or party may submit with a motion an "Order and Notice" in the form prescribed by LBR 9004-1a. that combines notice of the proposed action with an order allowing the proposed action if no timely written objection is filed. The Order and Notice shall include a provision allowing for objections to be filed as set forth in paragraphs (2) and (4), above. After the Order and Notice has been signed and received for entry, the movant or party to the agreed order shall serve a copy on the parties required to receive notice and file a certificate of mailing as set forth in paragraph (3) of this rule.

b. Exclusions and Modifications.

- (1) **Motions for Relief From Stay.** LBR 9013-1a. shall not apply to motions for relief from the stay.
- (2) **Chapter 13 Cases.**
 - (i) LBR 9013-1a. shall not apply to motions filed by the Chapter 13 Trustee to dismiss or convert a Chapter 13 case.
 - (ii) LBR 9013-1a. is modified for motions to amend or modify Chapter 13 plans to include the additional requirements in LBR 3015-2.

- (3) **Objections to Claims.** LBR 9013-1a. is modified as follows with respect to objections to claims:
- (i) The notice of objection to claim shall provide a thirty (30) day period for the filing of a response.
 - (ii) Every objection to claim and notice shall be accompanied by an affidavit or declaration under penalty of perjury that states with specificity the basis for the objection.
- (4) **Motions for Redemption.** LBR 9013-1a. is modified with respect to motions for redemption to include the additional requirements in LBR 6008-1.
- (5) **Notice of Abandonment.** LBR 9013-1a. is modified with respect to notice of abandonment as provided in LBR 6007-1.
- (6) **Motions to Convert or Dismiss in Chapter 11 Cases.** LBR 9013-1a. is modified with respect to motions to convert or dismiss in Chapter 11 cases to include:

Whenever a party files a motion or notice to convert or dismiss a Chapter 11 case, the notice of proposed action mailed pursuant to LBR 9013-1a.(1) or the order and notice submitted pursuant to LBR 9013-1a.(7) shall include the date, time and place at which any timely filed objection will be heard. The hearing date shall be obtained from the Clerk by the movant.

- (7) **Motions to Sell Property Free and Clear of Liens or Other Interests.** LBR 9013-1a. is modified with respect to motions to sell property free and clear of liens or other interests to include:

Whenever a party files a motion or notice to sell property free and clear of liens or other interests, the notice of proposed action mailed pursuant to LBR 9013-1a.(1) or the order and notice submitted pursuant to LBR 9013-1a.(7) shall include the date, time and place at which any timely filed objection will be heard. The hearing date shall be obtained from the Clerk by the movant.

- (8) **Notice of Fee Arrangement.** LBR 9013-1a. is modified with respect to a notice of fee arrangement as provided in LBR 2014-1.
- (9) **Notice of Fee Application.** LBR 9013-1a. is modified with respect to a notice of fee application as provided in LBR 2016-1.

(10) **Chapter 12 Cases.**

- (i) LBR 9013-1a. shall not apply to motions filed by the Chapter 12 Trustee to dismiss or convert a Chapter 12 case.
- (ii) LBR 9013-1a. is modified for motions to amend or modify Chapter 12 plans to include the additional requirements in LBR 2082-1d.

9013-2 ***Briefs and Memoranda of Law***

The provisions of the Local Rules of the District Court pertaining to briefs and memoranda of law are included as modified in LBR 9029-3-Rule 8.

9013-3 ***Certificate of Service - Motions***

- a. **In General.** Whenever the United States Code, *Federal Rules of Bankruptcy Procedure* or these Local Rules require a party to provide notice, the responsible party shall file a certificate of mailing with the Clerk within three (3) business days after placing the notice in the mail.
- b. **Contents of Certificate.** The certificate of mailing shall include the names and addresses of all parties served. A copy of the notice with attachments shall be attached to the certificate of mailing. For Chapter 13 cases, the certificate also shall include the total number of parties served.

9014-1 ***Contested Matters***

- a. **Pretrial Orders and Conferences.** Unless provided otherwise in a notice or order or by these local rules, pretrial orders and pretrial conferences shall not be required in contested matters. At any time, any party may file a separate motion requesting a pretrial conference in a contested matter.
- b. **Response Required.** Unless provided otherwise in a notice or order or by these local rules, in all contested matters, any party in opposition to the relief requested shall file and serve a written response denominated as an "answer" or "objection" on or before the earlier of ten (10) days after service of the motion (or other paper commencing the contested matter) or five (5) days before any hearing of the contested matter. **The failure to file and serve a timely written response shall be deemed a statement of no opposition to the relief requested.**

c. Discovery: Application of LBR 7026-1.

- (1) Except as provided otherwise in a notice or order or by these local rules, if a timely written response has been filed and served:
 - (i) the Required Disclosures in LBR 7026-1b.(1)(i) and (ii) shall be completed no later than five (5) days after service of the response or two (2) days before any hearing of the contested matter, whichever occurs first; and
 - (ii) the Required Disclosures in LBR 7026-1b.(1)(iii) shall be completed no later than ten (10) days after service of the response or two (2) days before any hearing of the contested matter, whichever occurs first; and
 - (iii) the Pretrial Disclosures in LBR 7026-1b.(2) shall be completed no later than two (2) days before any hearing of the contested matter.
- (2) If no timely written response has been filed and served, LBR 7026-1 shall not apply.

9015-1 *Jury Demand*

The provisions of the Local Rules of the District Court pertaining to jury demands are included as modified in LBR 9029-3-Rule 8(a)(1)b.

9016-1 *Subpoenas*

The provisions of the Local Rules of the District Court pertaining to subpoenas are included as modified in LBR 9029-3-Rule 8.

9018-1 *Secret, Confidential, Scandalous, or Defamatory Matter*

In order to file a document under seal, other than a document or statement prepared for a settlement conference and filed pursuant to a pretrial order, the following procedures must be followed:

a. Sealing Original Document. The original document must be sealed in an envelope with the caption (case name, case number, adversary proceeding number (if applicable) and title of document; see LBR 9004-2) affixed to the front of the envelope. **The requirement of LBR 5005-2 to file two copies of the document is waived.** The Clerk will not accept copies of the sealed document.

b. Motion and Proposed Order. The sealed document must be accompanied by a motion and proposed order directing the Clerk to place the document under seal. The

proposed order may identify the parties-in-interest, if any, who may have access to, copies of, transcription of or use of documents, tapes or other materials that are under seal and under what circumstances. If, however, an order directing the Clerk to file the document under seal has been entered, the Clerk must be provided a copy of that order or the docket entry number of the order.

c. **File with Clerk or Chief Deputy.** Documents under seal must be filed with Clerk or Chief Deputy personally. If a document is accompanied by a motion requesting an order to place the document under seal, the Clerk shall place the document under seal until disposition of the motion. Documents filed under seal will not be accepted at the counter and cannot be filed in the drop box.

d. **Documents Filed During a Court Hearing.** Documents filed during a court hearing that need to be placed under seal will be handled in same manner outlined above, except that the document may be filed with the Courtroom Deputy, who will accept the document and immediately deliver it to the Clerk or Chief Deputy.

e. **Docketing.** The Clerk or Chief Deputy will direct the deputy clerk to docket the document with the caption and title provided and note on the case docket that the document is filed under seal.

f. **Motion for Access to Sealed Documents, Tapes or Other Material.** In the absence of an order so providing, a party in interest must file a motion for access to, copies of, transcription of or use of documents, tapes or other materials that are under seal. Any order granting such motion must be presented to the Clerk or Chief Deputy when the party wishes to view the document.

9019-1 *Settlements and Agreed Orders*

a. **Submission of order.** Submission of a proposed agreed order will excuse attendance at a hearing, motion, trial or conference only if the proposed order is signed by all appropriate parties and is filed prior to the scheduled date and time. If a proposed agreed order has not been submitted in advance, counsel shall appear at the date and time fixed for the matter.

b. **District Court Rules.** The provisions of the Local Rules of the District Court pertaining to settlements and agreed orders are not adopted as stated in LBR 9029-3-Rule 20.

9021-1 *Judgments and Orders - Entry of*

The provisions of the Local Rules of the District Court pertaining to judgments and orders are included as modified in LBR 9029-3-Rule 13.

9029-1 *Local Rules - General*

a. **Title and Authority.** These rules shall be referred to as the Local Rules of the United States Bankruptcy Court for the Middle District of Tennessee. The rules are promulgated pursuant to *Fed. R. Bankr. P.* 9029. These rules shall take effect **August 25, 2000** and shall be applicable to pending cases and proceedings, except as specified otherwise.

b. **Citation to Local Rules.**

- (1) The Local Rules of the United States Bankruptcy Court for the Middle District of Tennessee shall be cited as LBR (number of rule).
- (2) Citations to Local Rules of the District Court adopted by the Bankruptcy Court shall be LBR (number of Bankruptcy rule) - Rule (number of District Court Rule). Example: LBR 9029-3-Rule 8(a)(4).

c. **District Court Rules.** The provisions of the Local Rules of the District Court pertaining to amendments of the local rules are included in LBR 9029-3-Rule 19.

9029-2 *Local Rules - General Orders*

The provisions of the Local Rules of the District Court pertaining to the entry of general orders has not been adopted as stated in LBR 9029-3-Rule 21.

9029-3 *Local Rules of District Court*

The Local Rules of the United States District Court for the Middle District of Tennessee are applicable in the United States Bankruptcy Court for the Middle District of Tennessee to the extent provided herein.

Rule 1: The provisions of Rule 1 of the Local Rules of the United States District Court for the Middle District of Tennessee pertaining to civil cases are adopted, except paragraph (f) is modified by deleting subparagraphs (2) and (4) and paragraph (g) is modified to omit the provision requiring the Clerk to mail a copy of the motion to withdraw to the attorney's client.

RULE 1

ATTORNEYS

(a) **Roll of Attorneys.** The bar of this Court shall consist of those persons heretofore admitted to practice in this Court and those who may hereafter be admitted in accordance with this Rule.

(b) **Eligibility.**

(1) To be eligible for admission to the bar of this Court, an attorney must be a member in good standing of the bar of the State of Tennessee unless he is otherwise exempt as provided in (2) herein.

(2) The eligibility requirement in (1), *supra*, will not apply to an attorney who has been employed less than twelve (12) months as an attorney in the Office of the United States Attorney or the Office of the Federal Public Defender provided that said attorney is a member of the bar of a United States District Court and has made application for admission to the bar of the State of Tennessee.

(c) Procedure for Admission.

(1) Each applicant for admission to the bar shall file with the Clerk a written petition, on the form provided by the Clerk, setting forth his residence and office addresses, his general and legal education, and the other courts to which he has been admitted to practice. The petition shall be signed by two members in good standing of the bar of this Court who recommended his admission.

(2) The Clerk will examine the petition and the accompanying recommendations, and if they are in compliance with this Rule, the petition will then be presented to a Judge of this Court. The petitioner will make suitable arrangements thereafter with the Clerk for his appearance and admission in open court or in chambers in accordance with this Rule.

(3) When a petition is called, one of the members of the bar of this Court shall move the admission of the petitioner. When admitted, the petitioner shall take an oath in the following form:

Do you solemnly swear that you will conduct yourself as a counselor of this Court, according to law, and that you will support and defend the Constitution of the United States, so help you God?

(4) The petitioner, after taking the foregoing oath, will then sign the roll of attorneys in the division where admitted and will pay to the Clerk the prescribed enrollment fee.

(d) Permission to Practice in a Particular Case. Any member in good standing of the bar of any other District Court of the United States who is not a resident of this district and who does not maintain an office in this district for the practice of law, may be permitted to appear and participate in a particular case in this Court subject to the following provision:

(1) No later than the first pleading filed in this Court, the attorney must certify his good standing as a member of the bar of another United States District Court which is designated by him. In cases where an attorney enters a case subsequent to the first pleading filed, he must certify his good standing no later than the first pleading or motion upon which his name appears.

(2) The United States Attorney and Assistant United States Attorneys for the Middle District of Tennessee shall be admitted to the bar of the Court before they are permitted to practice before this Court. Any other attorney representing the United States Government, or any agency thereof, may appear and participate in particular actions or proceedings in his official capacity without a petition for admission, provided he is a member of the bar of a District Court of the United States.

(3) All corporations chartered to do business as profit or nonprofit organizations must be represented by an attorney duly admitted or authorized to practice before this Court. Except by leave of Court, the Clerk of Court will not accept the filing of pleadings by such corporations unless such organizations are represented by counsel.

(e) Disbarment and Discipline.

(1) Any member of the bar of this Court may for good cause shown, and after an opportunity has been given him to be heard, be disbarred, suspended from practice for a definite time, reprimanded, or subjected to such other discipline as the Court may deem proper.

(2) Whenever it has been made to appear to this Court that any member of the bar has been disbarred or suspended from practice by law by the Disciplinary Board of the Supreme Court of Tennessee or the courts or disciplinary bodies of any other state, or has been convicted of any crime involving moral turpitude in this Court or any other court, he shall be suspended forthwith from practice before this Court, and unless he shows good cause to the contrary within thirty (30) days from the date of suspension, the Court may impose such further discipline as it deems proper.

(3) Except as otherwise provided by these Rules, any person who, before his admission to the bar of this Court or during his disbarment or suspension, exercises in this Court in any action or in any proceeding pending in this Court any of the privileges as a member of such bar, or pretends to be entitled to do so, is guilty of contempt of this Court and subjects himself to appropriate punishment therefor.

(4) The standard of professional conduct of the members of the bar of this Court shall include the current Code of Professional Responsibility of the American Bar Association. A violation of any of the disciplinary rules contained in the Code in connection with any matter pending before this Court shall subject the offending attorney to appropriate disciplinary action. In this regard, this Court may from

time to time appoint grievance committees to investigate any complaints made to it alleging improper professional conduct of any member of the bar in any way connected with his practice in this Court. In such case the committee appointed shall operate under the directions of the Court and shall take such actions as directed by the Court in the order appointing it. In the alternative, such complaints may be forwarded by the Court to the appropriate disciplinary authority of the state courts. This Rule shall not apply to Disciplinary Rule 7-107, which is superseded as a Rule of this District by Rule 3 of these Rules.

(5) In the discretion of the Court, a permanent disciplinary committee may be appointed.

(f) Appearance by Attorney.

(1) **Representation of Parties in Civil Cases.** An attorney representing a party in any civil action shall file a Notice of Appearance with the Clerk of the Court on a form to be prescribed and furnished by the Clerk, except that an attorney who has signed the original complaint, petition, or notice of removal is not required to file a Notice of Appearance. The notice shall be filed by the attorney promptly upon undertaking the representation and before or contemporaneously with the filing of any paper, other than a complaint, petition or notice of removal, by such attorney. Failure to file a Notice of Appearance may result in an attorney not receiving copies of orders issued by the Court. (Effective June 1, 1994.)

[(2) Not adopted.]

(3) **Service List.** If more than one attorney associated with a law firm has filed an Notice of Entry of Appearance or has signed the complaint, petition, or notice of removal, the attorneys from that law firm shall file a designation of which attorney will be included on the service list. Absent such designation, the Clerk shall send copies of orders and notices only to the attorney in the law firm who filed a Notice of Appearance first or only to the attorney in the law firm whose signature appears first on the complaint, petition, or notice of removal. The Clerk shall not send copies of orders or notices to more than one lawyer in any law firm. Provided, however, that the Clerk shall send copies of orders or notices to more than one lawyer representing any party, if such lawyers are in separate law firms. [(Effective June 1, 1994.)]

[(4) Not adopted.]

(5) Whenever a party has appeared by attorney, he may not thereafter appear or act in his own behalf in the action or proceeding, or take any step therein, unless an order of substitution shall first have been made by the Court, after notice to the attorney by such party and to the opposing party; provided, that the Court may in its discretion hear a party in open court, notwithstanding the fact that he has appeared or is represented by attorney.

(6) No attorney shall withdraw his appearance in any action or proceeding, either civil or criminal, except by leave of the Court as hereinafter prescribed.

(7) When an attorney dies, or is removed or suspended or ceases to act as attorney as hereinafter prescribed, a party to any action or proceeding for whom he is acting as attorney must, before any further proceedings are had in the action on his behalf, appoint another attorney or appear in person, unless such party is already represented by another attorney. Failure of a party to so act or to appear in person and to furnish his address to the Clerk shall constitute a default on the part of said party.

(g) Withdrawal as Attorney of Record. Any attorney representing a party desiring to have his name stricken of record shall file a request with the Trial Judge, in writing and in duplicate, through the Clerk of this Court, and shall disclose that such attorney has given due notice to his client of his intention to withdraw from the case, and shall specify the manner of such notice to the client, attaching a copy of the notice. Such notice to the client shall be given at least ten (10) days prior to the request to the Court unless the Court otherwise directs. ~~Upon the filing of the request with the Clerk, the Clerk shall forthwith mail a copy of such request to the client.~~ Ordinarily counsel will not be allowed to withdraw if such withdrawal will delay the trial of the case.

(h) Resident Associates in Civil Causes--Notices.

(1) If none of the counsel (including attorneys, solicitors, and proctors) appearing on behalf of any party in any civil case is a resident of or has his principal law office in the State of Tennessee, the Clerk of the Court shall immediately notify said counsel that there shall be joined of record by written appearance within ten (10) days thereafter associate counsel qualified to practice in the United States District Court for the Middle District of Tennessee who is a resident of this state or has his principal law office therein, in default of which, all pleadings filed in behalf of such party may be stricken by the Court, either upon motion or upon the Court's own initiative.

(2) Every requirement in these Rules or in any order of the Court for the giving of notice to any party or counsel, may, unless otherwise specifically provided, be complied with by giving the prescribed notice to the party's counsel of record residing in Tennessee or having his principal law office in Tennessee.

(3) Counsel (including attorneys, solicitors, and proctors), where admitted and entitled to practice in the courts of the Middle District of Tennessee, shall not become an attorney of record in any case or proceeding in this court unless personally retained by the litigant or client, or associated by counsel personally retained by the litigant or client. By becoming an attorney of record, counsel represents, absent prior approval of the Trial Judge, that he will be prepared to conduct the trial of the cause.

Rule 2: The provisions of Rule 2 of the Local Rules of the United States District Court for the Middle District of Tennessee are adopted, except paragraph (a) is modified to include meetings of creditors in the prohibition.

RULE 2

PHOTOGRAPHING, BROADCASTING AND TELEVISIONING

(a) **Prohibitions.** The taking of photographs, the airing of radio or televising of TV broadcasts, or transmission of verbal communications by unauthorized transmitting devices from the floors of the Courthouse occupied by the Courts during the progress of or in connection with judicial proceedings or grand jury proceedings, including proceedings before a United States Magistrate Judge *and meetings of creditors*, whether or not court is actually in session, is prohibited; provided that photographing and/or broadcasting in connection with naturalization hearings, ceremonial occasions, or other special proceedings will be permitted with the approval of the Chief Judge of the Court.

(b) **Enforcement.** In order to facilitate the enforcement of paragraph (a) above, no photographic, broadcasting, television, sound, or recording equipment or unauthorized transmitting devices (other than the recording equipment of the United States Magistrate Judge and the official Court Reporters, transmitting devices used by the General Services Administration Protective Service Officers, and any equipment used within the United States Attorney's office and the United States Marshal's office), will be permitted on the floors of the Courthouse occupied by the Courts, except where necessary as visual or auditory aids in the presentation of evidence during the course of a trial, or as otherwise provided by court order. Each Judge, in connection with all cases pending in this district, shall issue such orders under this Rule or the succeeding Rule regarding the matter of free press and fair trial as might seem proper under the circumstances of each case.

Rule 3: The provisions of Rule 3 of the Local Rules of the United States District Court for the Middle District of Tennessee are applicable as modified by Fed. R. Bankr. P. 9018.

RULE 3

RELEASE OF INFORMATION CONCERNING CRIMINAL AND CIVIL PROCEEDINGS

[(a) Not adopted.]

(b) **By Attorneys Concerning Civil Proceedings.**

(1) An attorney or law firm associated with a civil action shall not during its investigation or litigation make or participate in making any extrajudicial statement, other than a quotation from or reference to public records, that a reasonable person would expect to be disseminated by means of public communication if there is a serious and immediate threat that such dissemination will interfere with a fair

trial.

(2) Comment relating to the following matters is presumed to constitute a serious and immediate threat to a fair trial, and the burden shall be upon one charged with commenting upon such matters to show that his comment did not pose such a threat:

- a. Evidence regarding the occurrence or transaction involved;
- b. The character, credibility, or criminal record of a party, witness, or prospective witness;
- c. The performance or results of any examinations or tests or the refusal or failure of a party to submit to an examination or test.

[(c) Not adopted.]

(d) **Provision for Special Orders in Widely Publicized and Sensational Cases.** In widely publicized cases the Court, on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to interfere with the rights of a party to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters that the Court may deem appropriate for inclusion in such an order.

(e) **Conflict With Freedom of Information Act.** To the extent that the foregoing Rules may conflict with the provisions of the Freedom of Information Act or other federal statutes, these Rules shall be inoperative.

Rule 4: The provisions of Rule 4 of the Local Rules of the United States District Court for the Middle District of Tennessee are adopted.

RULE 4

USE OF COURTROOMS

Only for Court Business. The various courtrooms of the United States District Court are solely for trials, hearings, and transactions of other Court business. The courtrooms will not be utilized for any other purpose unless approved by the Court. The Chief Judge shall approve any other use for the courtrooms in the Nashville Division, and the Judge assigned to the other divisions shall control the use of the courtrooms in those divisions.

Rule 5: The provisions of Rule 5 of the Local Rules of the United States District Court for the Middle District of Tennessee pertaining to civil cases are adopted.

RULE 5

DIVISIONS OF COURT

The Middle District of Tennessee consists of three (3) divisions as set forth in 28 U.S.C. § 123.

All criminal cases in the District shall be tried in the Nashville Division.

The place of trial in civil cases shall be determined by the provisions of 28 U.S.C. § 1393.

By order of the Trial Judge and pursuant to law, the trial of either criminal or civil cases may be transferred to another division.

Rule 6: Rule 6 of the Local Rules of the United States District Court for the Middle District of Tennessee is not adopted.

Rule 7: The provisions of paragraphs (a), (b) and (j) of Rule 7 of the Local Rules of the United States District Court for the Middle District of Tennessee are adopted.

RULE 7

CLERK OF THE COURT

(a) Legal Advice. The Clerk and the employees of the Clerk's Office desire to be of help to litigants and attorneys. However, interpreting the rules of procedure and giving legal advice are not permitted functions. **Notice is hereby given** to litigants and attorneys that the Clerk and the Clerk's employees assume no responsibility for information respecting applicable procedural rules, substantive law, or interpretation of local rules of Court.

(b) Removing Case Files. No case files shall be removed from the office of the Clerk or Deputy Court Clerk without an order from the Trial Judge. An individual seeking to remove a file shall first prepare and submit an appropriate order to the Judge for his signature. Retention of removed files shall in no instance exceed one (1) week, absent extenuating circumstances, and then only by Court order. The Clerk shall remove any and all transcripts, depositions or court reporter work products from the file before allowing the file to be removed from the Office of the Clerk. The provisions of this section shall not be deemed to alter the provisions of Rule 16(d) of these Rules.

[(c) - (i) Not Adopted.]

(j) Photocopying Depositions and Transcripts. The Clerk's Office shall not make photocopies, in full or in part, of depositions, transcripts, or any other work product of a court reporter which is on file with the Clerk. Persons desiring copies shall contact the court reporter who prepared the deposition, transcript, or other work product of the court reporter, for such copy or copies.

Rule 8: Subparagraph (a)(4) and (b)(8) of the Local Rules of the United States District Court for the Middle District of Tennessee are adopted. Paragraph (a)(1) is adopted except that subparagraph d. is not adopted and subparagraph 8(a)(1)a. is modified by deleting "*except quoted material, shall be double spaced and*" and by including the address and telephone number of the attorney to be typed with the name under the signature line. Also "Rule 11 of the Federal Rules of Civil Procedure" is replaced with "Rule 9011 of the Federal Rules of Bankruptcy Procedure." Paragraph (b)(9) is adopted except the paragraph is modified to require that the order be filed with the Clerk rather than the Judge. Paragraph (b)(10) is adopted except that "Bankruptcy" is substituted for "District" and the reference to the United States Magistrate Judge is deleted. Paragraph (c) is adopted except that subparagraph (c)(7) is modified to provide that pretrial briefs shall be filed in accordance with the pretrial order issued by the Court. Paragraphs (d) and (e) are not adopted.

RULE 8

PLEADINGS, MOTIONS, BRIEFS, SUMMONSES, SUBPOENAS, ETC.

(a) Form and Preparation.

(1) Forms of papers to be filed:

a. All pleadings, motions, briefs, and all other papers prepared by counsel and presented for filing shall be flat and on paper 8-1/2" X 11" with the first line of typing below the sixth line. All material ~~except quoted material, shall be double spaced and~~ shall be typed, printed or prepared by a clearly legible duplicating process and all pages shall be numbered at the bottom. On the first page of each pleading or similar document, the title of the Court shall appear on the eighth line. All pleadings shall be signed as required by [Rule 9011 of the Federal Rules of Bankruptcy Procedure] and names, *addresses and phone numbers* shall be typed beneath all signature lines. All exhibits to pleadings shall be paginated progressively with the principal document, but shall, following the number of the page, show also the exhibit number.

b. If demand for jury trial under Rule 38(b) and (c) of the Federal Rules of Civil Procedure is made in the complaint or answer, such demand shall be contained in the last paragraph thereof. The phrase "JURY DEMAND" shall appear immediately opposite the style of the case on the first page of the pleading.

c. When it appears to an attorney that a case that has been filed with the Clerk will require in excess of one week for trial, he shall advise the Clerk thereof.

[(a)(2) and (3) are not adopted.]

(4) Preparation of Subpoenas for Witnesses. The United States Marshal will not serve subpoenas for witnesses in civil cases unless so required by these Rules, the Federal Rules of Civil Procedure, or by order of the Trial Judge. Should an attorney deliver subpoenas for witnesses in civil cases to another individual for service, such subpoenas shall be delivered along with an advance of such funds as may be required, and otherwise in accordance with the Federal Rules of Civil Procedure, seven (7) days, *excluding Saturdays, Sundays and holidays*, prior to the trial date. If the foregoing requirement has not been met, a motion for continuance grounds upon failure of a witness to be served or to appear shall not be granted except upon a showing of extenuating circumstances.

[(a)(5) is not adopted.]

(b) Motions. ...

[(b)(1) through (7) are not adopted.]

(8) Motions to Ascertain Status of Case. At any time, an attorney for any party to a proceeding may file a written motion inquiring of the Trial Judge as to the status of the case or of pending motions, and may include in said motion a statement of reasons why an expedited disposition of the case or motion is deemed necessary or desirable.

(9) Orders Made Orally in Court. Unless the Court directs otherwise, all orders, including findings of fact and conclusions of law, orally announced in court shall be prepared in writing by the attorney for the prevailing party and taken to the ~~Judge-Clerk~~ within five (5) days thereafter, and copies thereof shall be served on all parties.

(10) All motions and orders to produce prisoners for testimony in the United States ~~District Bankruptcy Court, or before the United States Magistrate Judge,~~ shall be filed with the Clerk at least fourteen (14) days prior to the date of the hearing. Relief from this rule may be obtained by an order of the United States Bankruptcy Judge.

(c) Briefs.

(1) Briefs shall be submitted as provided in part (a)(1)a of this Rule.

(2) Citations to United States Supreme Court decisions shall include "triple cites" (U.S. Reports, Supreme Court Reporter and Lawyer's Edition) where such citations exist. For more recent decisions, United States Law Week citations are acceptable.

(3) Citations to reported state cases shall include at least the "official" state reporter citation and the regional reporter citation where available. Any citation to state cases other than Tennessee cases shall be accompanied by a copy of the entire text of the opinion.

(4) Citations to federal statutes shall include at least the title and section designation as the statute appears in the United States Code.

(5) Citations to any federal court decision or administrative opinion not reported in one of the publications of the West Publishing Company shall be accompanied by a copy of the entire text of the decision.

(6) Failure to comply with the provisions of Rules 8(c)(3) or 8(c)(5) above shall result in nonconsideration by the Court of the cited cases.

(7) Pretrial briefs shall be filed in accordance with ~~Rule 11(b)(15)~~ *the pretrial order issued by the Court.*

[Paragraphs (d) and (e) are not adopted.]

Rule 9: Rule 9 of the Local Rules of the United States District Court for the Middle District of Tennessee is adopted.

RULE 9

DISCOVERY IN CIVIL CASES

(a) Interrogatories.

(1) When answering or objecting to interrogatories, the replying or objecting party shall, as part of his answer or objection, set forth immediately preceding the answer or objection, the interrogatory with respect to which answer or objection is made.

(2) Interrogatories pursuant to Rule 33, Federal Rules of Civil Procedure, shall be limited to thirty (30) such interrogatories. Subparts of a question shall be counted as additional questions for purposes of the overall number. Leave of Court must be obtained to submit interrogatories above thirty (30) in number. Requests for leave shall include copies of such additional interrogatories ~~or~~, and a statement of counsel as to the necessity for such information, its relevance, or likelihood to lead to relevant information, and the fact that it cannot readily be obtained from other sources.

(3) Answers to interrogatories must be supplemented a sufficient time before trial to the end that no evidence within the scope of the interrogatories will be proffered at trial which has not previously been brought to the attention of opposing counsel. A violation of this Rule, which expands the duty to supplement imposed by Rule 26(e) of the Federal Rules of Civil Procedure, may result in the imposition of serious sanctions, including taxing of costs to the culpable party for any delays caused.

(b) Requests for Admissions and Production of Documents. When responding to requests for admissions or requests for production of documents, the procedures set forth in Rule 9(a)(1) shall apply.

(c) Filing of Depositions, Interrogatories, Requests for Documents, Requests for Admission.

(1) Pursuant to the provisions of Rule 5(d) of the Federal Rules of Civil Procedure, depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall not be filed with the Clerk's Office except by order of this court.

(2) A party moving to compel under Rule 37(a)(2) of the Federal Rules of Civil Procedure, or to determine sufficiency under Rule 36 of the Federal Rules of Civil Procedure, shall file only that portion of the deposition, interrogatory, requests for documents, or requests for admissions that are objected to.

(3) In multi-party or complex litigation the parties may apply to the Court for an Order permitting service of interrogatories, requests for admissions and requests for production of documents by letter or by such other informal means as may be agreed to by the parties. In multi-party or complex litigation where such an application is made, the parties shall exhibit to such application or motion a proposed order setting forth the proposed means of conducting discovery upon an informal basis, including the proposed procedures for filing, service, responding to, and verification of the discovery contemplated.

(d) Discovery Conference, Discovery Depositions and Evidentiary Depositions.

(1) Discovery conferences will be held when requested pursuant to Rule 26(f) of the Federal Rules of Civil Procedure.

(2) The original of all depositions that are to be introduced as evidence shall be filed before trial under seal with the Clerk of the Court in accordance with Rule 30(f) of the Federal Rules of Civil Procedure. Such shall not be removed prior to the entry of final judgment absent a Court order signed by the Trial Judge.

(3) After a judgment in a civil action becomes final or the case is otherwise finally closed, the Clerk may deliver or mail all depositions lodged or filed in the case to the party on whose behalf the same were taken, or to his attorney. If such depositions are refused by the party entitled thereto, they may

be destroyed.

(4) In jury cases, when a deposition is to be read at trial as the basic testimony of a witness, all counsel shall, at least seven (7) days prior to the trial date, advise opposing counsel of those portions of the deposition to be read to the jury. Such portions are to be designated by underlining or otherwise marking on the deposition, and if such designations are made on the same copy of the deposition by attorneys representing different interests in the litigation, contrasting colors shall be used. All repetitious and irrelevant questions and answers and all colloquy between counsel--including objections to questions, instructions to the deponent, and impertinent remarks--must be deleted. All objections to portions of the depositions thus prepared must be submitted to the Trial Judge prior to the use of said depositions at trial, in accordance with Rule 12(d)(1).

(e) Motions to Compel Discovery.

(1) Motions to compel discovery in accordance with Rules 30, 33, 34, 36, and 37 of the Federal Rules of Civil Procedure shall:

- a. quote verbatim each question or interrogatory, request for admission, or request for production to which objection has been taken;
- b. include the grounds assigned for the objection (if not apparent from the objection); and
- c. include the reasons assigned as supporting the motion. The reasons for each objection shall be written immediately following the objection. Such objections and grounds shall be addressed to the specific interrogatory, request for admission, or request for production and may not be made generally.

(2) In seeking to compel the production of documents, the moving party shall set forth immediately following each request to compel, the request to produce submitted to the opposing party and the response, if any, made by the opposing party to the moving party.

(3) Counsel for the moving party shall file with the Court at the time of filing the motion, a statement certifying that he has conferred with counsel for the opposing party in a good faith effort to resolve by agreement the issues raised and that counsel have not been able to do so. If certain of the issues have been resolved by agreement, the statement shall specify the issues remaining unresolved.

(f) Subpoena in Aid of Discovery. Whenever a party in a civil action seeks to obtain a subpoena for purposes other than to require attendance at a hearing or trial, then the party seeking issuance of the subpoena shall file and serve a notice to take the deposition of the person or entity to be subpoenaed before the subpoena is issued by the Clerk.

(g) Whenever a party in a civil action issues a subpoena for the production of documents to a person not a party to the action pursuant to Rule 45 of the Federal Rules of Civil Procedure, the party issuing the subpoena shall promptly serve a copy of the subpoena upon every other party to the action. Each party to the action in which such a subpoena is served, shall have the right to inspect and copy documents produced pursuant to such a subpoena, absent an order of the Court to the contrary.

- Rule 10: Rule 10 of the Local Rules of the United States District Court for the Middle District of Tennessee is not adopted.
- Rule 11: Rule 11 of the Local Rules of the United States District Court for the Middle District of Tennessee is not adopted.
- Rule 12: Rule 12 of the Local Rules of the United States District Court for the Middle District of Tennessee is not adopted.
- Rule 13: The provisions of Rule 13 of the Local Rules of the United States District Court for the Middle District of Tennessee are adopted, except paragraph (b) is modified by deleting subparagraph (2) and paragraph (e) is modified as follows: "Bankruptcy" is substituted for "District" and the fee application must comply with LBR 9013-1.

RULE 13

JUDGMENTS, GARNISHMENTS AND COSTS

(a) **Entry of Judgments.** Absent a contrary direction by the Court, all judgments shall be entered by the Clerk of the Court.

(b) **Payment and Satisfaction of Judgments.**

(1) Except with respect to garnishments, litigation in which the United States is a party, or in which there is recovery by a minor or incompetent, the Clerk shall not, unless authorized by order of the Court, accept payment of judgments. Counsel shall, however, upon receipt of payment of a judgment, satisfy the Clerk's docket therefor or file a certificate of receipt of payment.

[(2) Not adopted.]

(3) Where money has been paid into the Clerk's office in behalf of a minor or incompetent, a guardian shall be qualified under state law within thirty (30) days, and the Clerk shall thereupon disburse the funds to said guardian.

(c) **Garnishments.** Garnishment procedure conforms with Tennessee state law. It shall be the duty of the United States Marshal serving the garnishment summons upon the employer garnishee to obtain on the U.S. Marshal Form 285 an acknowledgment of service of the garnishment summons signed by the employer garnishee, if a person, or signed by an officer of the employer garnishee, if a corporation, company or business entity. If the employer garnishee or officer refuses to sign the Form 285, the Marshal shall sign and return to the Court a sworn statement on the Form 285 that the summons was duly served by the employer garnishee or the officer of the employer garnishee refused to sign an acknowledgment of service.

(d) **Costs.** If counsel for the litigants in a civil case are able to agree on costs, they need not file a cost bill with the Clerk. If counsel cannot agree, a cost bill shall be filed by the prevailing party with the Clerk within thirty (30) days from the entry of the judgment in the case. A copy of said bill of costs shall be served on opposing counsel. A statement shall appear thereon that the bill of costs will be presented to the Clerk on a day and hour certain, but no sooner than five (5) days from the date of service. If opposing party does not file written objections within the five-day period, the Clerk shall allow all costs claimed. If objections are filed, the Clerk shall give at least five days' notice and thereafter shall assess the costs. After the assessment of costs by the Clerk, notice thereof shall be given to counsel as to the proposed action of the Clerk. Thereafter, within five days, either party may appear before the Clerk and except to the Clerk's proposed action. After such exceptions, the Clerk shall make a final determination of the court costs. The action of the Clerk may be reviewed by the Court by motion served within five days after the action of the Clerk.

The Clerk shall not accept any bill of costs which does not have thereon a certificate of service and a time certain when it will be presented to the Clerk.

(e) **Attorneys' Fees.**

(1) **Attorneys' fees After Entry of District Bankruptcy Court Judgment.** Unless otherwise provided by statute or Order of the Court, a motion for an award of attorneys' fees and related nontaxable expenses shall be filed within thirty (30) days from the District Bankruptcy Court's entry of judgment in the case.

(2) **Attorneys' Fees After Any Appeal.** Unless otherwise provided by statute or Order of the court, a motion for an award of attorneys' fees and related nontaxable expenses for appellate and Supreme Court litigation in the case shall be made within thirty (30) days of the entry of the District Court or Bankruptcy Appellate Panel order, Sixth Circuit mandate and, if applicable, thirty (30) days from the denial of a petition for certiorari or other final decision of the Supreme Court.

(3) **Requirement for Supporting Documents; Deadline for Objections; Oral Hearing.** A motion for an award of attorneys' fees shall comply with LBR 9013-1 and be supported by a memorandum brief as to the authority of the court to make such an award, and as to why the movant should be considered the "prevailing party," if such is required for the award. The motion shall also be supported by an affidavit of counsel setting out in detail the number of hours spent on each aspect of the case, the prevailing rate charged in the community for similar services, and any other factors which the Court should consider in making the award. ~~Within ten (10) days after filing of the motion, the party or parties against whom the award is requested shall respond with any objections thereto and accompanying memorandum~~

~~setting forth why the award is excessive, unwarranted, or unjust. Either party may request oral hearing on the motion and objection. Any party wishing to object to the motion shall comply with LBR 9013-1a.(4). The objection shall be accompanied by a memorandum setting forth why the award is excessive, unwarranted, or unjust.~~

Rule 14: Rule 14 of the Local Rules of the United States District Court for the Middle District of Tennessee is adopted.

RULE 14

EXHIBITS

After final determination of any action, counsel or parties shall have thirty (30) days within which to withdraw exhibits. In the event the exhibits are not withdrawn, the Clerk shall, without notice, destroy or otherwise dispose of the exhibits.

Rule 15: Rule 15 of the Local Rules of the United States District Court for the Middle District of Tennessee is adopted.

RULE 15

CLASS ACTIONS

(a) **The Complaint.** In any case sought to be maintained as a class action:

- (1) The complaint shall bear next to its caption the legend "Complaint--Class Action."
- (2) The complaint, under a separate heading to be styled "Class Action Allegations," shall state:

- a. a reference to the portion or portions of Rule 23 of the Federal Rules of Civil Procedure under which it is claimed that the suit is properly maintainable as a class action, and
- b. appropriate allegations thought to justify such claim, including, but not necessarily limited to:

1. the definition and size of the alleged class, including the number or approximate number and the geographic dispersion of the members;
2. the bases upon which the plaintiff (or plaintiffs) claims
 - I. to be an adequate representative of the class in fact and to be financially able to represent the class;
 - ii. if the class is composed of defendants, that those named as parties are adequate representatives of the class;
3. the alleged questions of law and/or fact claimed to be common to the class;
4. in actions claimed to be maintainable as class actions under subdivision (b)(3) of Rule 23 of the Federal Rules of Civil Procedure, allegations thought to support the findings required by that subdivision; and
5. in actions requiring a jurisdictional amount, the basis of determining that amount.

(b) **Determination.** Within sixty (60) days after the filing of a complaint in a class action, unless this period is extended on motion for good cause appearing, the plaintiff shall move for a determination under subdivision (c)(1) of Rule 23 of the Federal Rules of Civil Procedure, as to whether the case is to be maintained as a class action. In ruling upon such a motion, the Court may allow the action to be so maintained, may disallow and strike the class action allegations, or may order postponement of the determination pending discovery or such other preliminary procedures as appear to be appropriate and necessary under the circumstances. Whenever possible, where it is held that the determination shall be postponed, a date shall be fixed by the Court for the renewal of the motion.

(c) **Applicability.** The foregoing provisions shall apply, with appropriate adaptations, to any

counterclaim or crossclaim alleged to be brought for or against a class.

- Rule 16: Rule 16 of the Local Rules of the United States District Court for the Middle District of Tennessee is not adopted.
- Rule 17: Rule 17 of the Local Rules of the United States District Court for the Middle District of Tennessee is not adopted.
- Rule 18: Rule 18 of the Local Rules of the United States District Court for the Middle District of Tennessee is not adopted.
- Rule 19: Rule 19 of the Local Rules of the United States District Court for the Middle District of Tennessee is adopted.

RULE 19

AMENDMENTS

These Rules may be amended, supplemented or deleted, in whole or in part, at any time by appropriate action.

- Rule 20: Rule 20 of the Local Rules of the United States District Court for the Middle District of Tennessee is adopted as modified below. Appendices to Rules 20 - 27 are included in Appendix K.

RULE 20

STATEMENT OF AUTHORITY AND PURPOSE

(a) Authority: Pursuant to 28 U.S.C. §§ 471, 473(a)(6) and 475; 28 U.S.C. § 651(a), Fed. R. Civ. P. 16(c)(9), 53 and 83, ~~{and this Court's Civil Justice Expense and Delay Reduction Plan of 1994, as provided in Local Rule 20,}~~ this Court is authorized to experiment with court-supervised methods of alternative dispute resolution and to determine the type(s) of alternative dispute method(s) that are effective in the speedy, just, prompt and inexpensive resolution of litigation. These Rules create alternative procedures to traditional litigation and define the process to refer appropriate cases to such procedures as well as to monitor the results of these alternative procedures.

(b) Purpose of Alternative Dispute Resolution ("ADR"). The purpose of alternative dispute resolution is to provide a mechanism by which the Court and the parties can consider ADR techniques to aid in resolution of cases by settlement and thereby avoid the expense of trial and delay in adjudication. By use of these techniques, settlements can be facilitated early in the proceedings, thereby reducing otherwise unnecessary time and expense of protracted pretrial proceedings, including discovery and other pretrial preparation.

Under these Rules, the Middle District of Tennessee's Alternative Dispute Resolution program provides for judicially conducted settlement conferences, mediation, early neutral evaluation, non-binding arbitration, and Rule 68 offers of judgment. ~~{A summary jury trial is also available under Rule 602 of the Local Rules Governing Procedures before Magistrate Judges.}~~ The Mediation, Early Neutral Evaluation and Non-binding Arbitration proceedings will be conducted by ADR Panel Members who are appointed by the Court and who will conduct these ADR procedures under the supervision of the Court.

(c) Application of Alternative Dispute Resolution. All cases filed in this District are subject to alternative dispute resolution. These rules, however, are applicable only to an ADR proceeding pursuant to order of reference in a specific case.

(d) Referrals to Alternative Dispute Resolution Proceedings.

(1) Upon motion of the parties or at the initiative of the Court, a ~~{District Judge or Magistrate}~~ Bankruptcy Judge to whom the case is assigned may refer the case for mediation, early neutral evaluation, a settlement conference, non-binding arbitration, or other non-binding method of alternative dispute resolution provided by the Court, with or without the consent of the parties. The Order of Reference may include a date by which the ADR proceedings must be concluded.

(2) If appropriate, the Court or ADR neutral shall require that a party or a representative of a party with the authority to settle the action be present for the ADR proceeding except upon good cause shown. A party that is a governmental entity need not have present at the proceeding the persons who would be required to approve a settlement before it could become final (e.g., the members of a city council or the chief executive of a major agency), but must send to the proceeding a representative who is knowledgeable about the facts of the case and the governmental entity's position.

(e) Supervisory Power of the Court. Notwithstanding any provision of this rule, the ~~{District}~~ Bankruptcy Judge to whom a civil action is assigned, retains full authority to supervise ~~{every action}~~ every action that is subject to this rule consistent with Title 28, of the United States Code, the Federal Rules of Civil Procedure, Federal Rules of Bankruptcy Procedure, and Local Rules of Court.

(f) Sanctions: To ensure compliance with these rules, if a party or the party's attorney, without good cause, fails to comply with an Order under these Rules, such as failure to pay the ADR panel member's fee, then pursuant to Fed. R. Bankr. P. 7016 and Fed. R. Civ. P. 16(f), the Court may impose sanctions upon the party or the party's counsel, including but not limited to the payment of reasonable attorney fees, ADR panel member's fees and costs incurred by the reason of the failure to comply with these Rules; contempt; or any other lawful sanction.

(g) Adherence to Schedule. Unless the case is settled at the conclusion of the referral to an ADR proceeding, the action shall proceed toward final disposition in accordance with the ~~Scheduling or Case Management Order~~ applicable Rules or Order of the Court.

Rule 21: The provisions of Rule 21 of the Local Rules of the United States District Court for the Middle District of Tennessee are adopted except paragraph (b) is modified so as to not qualify its own ADR panel, but to allow the Clerk of the bankruptcy court to obtain the list of ADR panel members from the District Court Clerk or ADR Coordinator when necessary to perform any action required by these rules:

RULE 21

DEFINITION, PROCEDURES, AND ADMINISTRATION

(a) Definitions: As used in these Rules, the following terms are defined as follows:

(1) "Alternative dispute resolution proceeding" is any process designed to aid parties in resolving their disputes outside of a formal judicial proceeding, and includes judicial settlement conferences, mediation, non-binding arbitration, early neutral evaluation, and summary jury trial.

(2) "Judicially Conducted Settlement Conference" is a form of mediation set by Order of the Court in which a Judge of the Court presides pursuant to Fed. R. Civ. P. 16.

(3) "Mediation" is an informal process in which a neutral person, called a mediator, conducts discussions among the disputing parties designed to enable them to reach a mutually acceptable agreement among themselves on all or any part of the issues in dispute.

(4) "Non-binding arbitration" is a process in which an ADR neutral or a panel of ADR neutrals, called an arbitrator or an arbitration panel, considers the facts and arguments presented by the parties and renders a written decision that is non-binding.

(5) "Early Neutral Evaluation" is a process in which an ADR neutral called an evaluator, after receiving brief presentations by the parties summarizing their positions, identifies the central issues in dispute as well as areas of agreement, provides the parties with an assessment of the relative strengths and weaknesses of their case and upon request of the parties, may offer a valuation of the case. Upon request of the parties, the early neutral evaluation process may include mediation.

(6) "Rule 68 Offer of Settlement" is an offer by a party pursuant to Fed. R. Bankr. P. 7068 and Fed.

R. Civ. P. 68 and Local Rule 26 to an opposing party to settle a civil action.

(7) "Dispute Resolution Neutrals" and "ADR Panel Members" include Arbitrators, Mediators, or Evaluators who are selected by the Court to conduct an alternative dispute resolution proceeding.

(b) This court will not qualify its own ADR panel, but will use the panel approved by ~~Qualifications of ADR Panel Members. An individual may be approved to serve as an ADR panel member by Order of the Court, if he or she meets the following qualifications:~~

~~(1) must be a lawyer, licensed to practice in the State of Tennessee, and admitted to practice before} the United States District Court for the Middle District of Tennessee. The Clerk of the bankruptcy court will obtain the list of ADR panel members from the District Court Clerk or ADR Coordinator when necessary to perform any action required by these rules;~~

~~(2) must have practiced law at least five years;~~

~~(3) must have had formal training, including at least forty (40) hours of formal ADR training as approved by the Court and such additional training as may be provided by the Court;~~

~~(4) must agree that they will be available to conduct at least one ADR proceeding per year without compensation;~~

~~(5) must commit to at least one year of service on the ADR Panel;~~

~~(6) must agree to participate in the reporting and research requirements of the ADR program as they may be developed; provided however, that no reporting or research requirement shall require an ADR panel member to divulge any confidence in violation of Local Rule 27 regarding Confidentiality and Restrictions on the Use of Information;~~

~~(7) must agree to comply with the provisions of these Rules and any Standing Order which may be entered in any Division of this Court for the purpose of implementing this Rule;~~

~~(8) must agree to provide to the Court such biographical and other information as the Court may require; and~~

~~(9) must agree to take the oath under 28 U.S.C. § 453 that is required of a judicial officer.~~

~~Any lawyer who has been approved by a federal or state court of this state, for service as a qualified ADR neutral shall be deemed a qualified neutral for ADR proceedings in this District}.~~

(c) Upon approval of the Court, the parties may select an ADR provider who is not an ADR panel member to provide an ADR service for that case.

(d) List of ADR Panel Members: The Clerk of Court or ADR Coordinator shall maintain a list of Court-approved panel members whose names and resumes of their professional experiences shall be available upon request of a party's counsel.

(e) Compensation of ADR Panel Members: All ADR Panel members shall be compensated at rates to be agreed upon by the parties and the ADR panel member or as set by the Court. Compensation for any panel member's services shall be borne equally by the parties to the ADR proceeding unless other arrangements are agreed to by the parties or are set by the Court.

(f) Selection of ADR Panel Members:

(1) Except for judicially sponsored settlement conferences and Rule 68 offers of judgment, within ten (10) days of the Court's Order directing a dispute resolution procedure, the parties must either agree on a dispute resolution neutral from the list of court-approved neutrals and submit a neutral's name to the court for its approval, or notify the court that no agreement has been reached. In the event the parties are unable to agree, the Clerk or ADR coordinator will select at random three neutrals from the list approved by the Court (with one additional such neutral designated for each additional party over two) for the parties' consideration and each party shall have one strike. The Court will enter an Order appointing the remaining neutral from the parties' designations.

(2) If the parties are unable to agree, the Judge shall appoint the remaining neutral unless valid and timely objection is made by one of the parties. Objections to the Court's Order of appointment must be made by motion for reconsideration within ten (10) days of the date of the Court's Order. On the motion for reconsideration, the ADR procedure is stayed pending a decision, unless otherwise ordered by the court. If an objection is sustained, the selection process shall be repeated.

(3) A neutral selected by the Court to serve under this process may choose not to serve for any reason, in which case the process, under Rule 21(f), will be repeated. If a neutral chosen by the parties is unable or unwilling to serve on the particular case, then the parties shall select another, or if they are unable to agree, the Rule 21(f) process will be repeated.

(4) If the parties fail to notify the Clerk of the Court in writing of their agreement on a neutral by the stated deadline, the Court will select three or more neutrals for the parties from which the Court will designate one or more neutral(s) for the ADR proceeding. For good cause shown, a party may seek relief from this provision by filing a motion for such relief in the action.

(5) Persons acting as neutrals pursuant to a court-ordered ADR proceeding are appointed as special masters pursuant to Fed. R. Civ. P. 53 and shall have immunity to the same extent as a Judge of this Court in the conduct of the ADR proceeding.

(g) The Administration of the ADR: The ADR Program shall be administered by the Clerk or his designee, called the ADR Coordinator, ~~{in conjunction with the Court's ADR Committee,}~~ and with approval of the Court.

Rule 22: The provisions of Rule 22 of the Local Rules of the United States District Court for the idle District of Tennessee pertaining to judicially-conducted settlement conferences are adopted.

RULE 22

JUDICIALLY-CONDUCTED SETTLEMENT CONFERENCES

(a) Settlement Judge. Settlement conferences will be conducted by a ~~{District}~~ Bankruptcy Judge ~~{or Magistrate Judge}~~ other than the Judge to whom the case is assigned for trial, except when requested and agreed upon by the parties that the Judge to whom the case is assigned should handle the settlement conference or the Judge to whom the case is assigned deems it appropriate to preside over the settlement conference because of the exigencies of the case. The Judge to whom the case is assigned for a settlement conference shall be referred to as the "Settlement Judge."

(b) Scheduling Settlement Conferences. A Judge who is assigned to the case may schedule a settlement conference as part of the case management order or as a result of discussions during a case management conference, with or without the consent of any or all parties. A party may file a motion requesting a settlement conference, if a settlement conference is not otherwise provided in the case management order.

(c) Party Attendance. The assigned Judge shall require that the parties or their representatives with full settlement authority to attend the settlement conference except upon good cause shown. A party that is a governmental entity need not have present at the proceeding the persons who would be required to approve a settlement before it could become final (e.g., the members of a city council or the chief executive of a major agency), but must send to the conference a representative who is knowledgeable about the facts of the case and the governmental entity's position.

(d) Settlement Statements.

(1) Procedures for Submission.

- a. At least five (5) days before the settlement conference, each party shall deliver under seal, directly to the courtroom deputy for the Settlement Judge, an ex parte settlement conference statement, which shall specify the party's settlement position.
- b. The settlement statement shall be furnished only to the Court and not to any other party.
- c. The settlement statement shall not be filed with the Clerk of Court.

(2) Contents of the Settlement Statement.

a. The settlement statement shall include a summary of the party's view of the law as to theory of liability or defense, factors compelling or blocking settlement, status of discovery, and identification of any essential or concerned third parties. In addition, each party shall state whether any settlement offer has been made and the terms thereof shall also contain a candid assessment of the strengths and weaknesses of both sides of the case, an appraisal of the issue of liability, the status of the parties' settlement discussions, if any, and an assessment of the economic cost of proceeding to trial.

(1) Plaintiff's settlement statement shall contain an assessment from plaintiff's viewpoint of damages and the strengths and weaknesses of plaintiff's position.

(2) Defendant's settlement statement shall contain an assessment of the plaintiff's damages, defendant's exposure to those damages and the respective strengths and weaknesses of defendant's position.

b. The settlement statement shall contain a statement of the settlement authority extended by the client based on the attorney's written evaluation and opinion which shall be furnished to the client in sufficient time to obtain express settlement instructions.

c. Confidentiality. No part of any of the contents of the discussions or any statements made or information provided to the Court and/or to any other party or counsel during a settlement conference shall be used by any party or repeated to or otherwise provided to any other person by any party for use in the litigation or any other litigation for any purpose whatsoever or for any other purpose not in connection with the case or any other litigation. This protection includes, but is not limited to, the protection provided by Rules 408 and 409 of the Federal Rules of Evidence. Likewise, all disclosures made to the Settlement Judge shall be kept in strict confidence.

Rule 23: The provisions of Rule 23 of the Local Rules of the United States District Court for the Middle District of Tennessee are adopted with the following changes:

RULE 23

MEDIATION

(a) Notice of Time and Place for Mediation. After a case has been referred for mediation and the Mediator is selected, the ADR Coordinator, in consultation with the mediator and counsel for the parties, shall set the time and place for the hearing and send notice to the mediator at least twenty (20) days before the date for mediation conference.

(b) Conference Statements. Counsel shall submit a conference statement of their respective views on the dispute in accordance with Appendix 2 to these Rules. In addition, this statement shall include a summary of the party's view of the law as to theory of liability or defense, factors compelling or blocking settlement, status of discovery, and identification of any essential or concerned third parties. Each party shall state whether any settlement offer has been made and the terms thereof. All documents deemed critical by counsel for a party on questions of liability and damages shall be submitted to the mediator. The documents may include medical reports, bills, records, photographs, and any other documents supporting the party's claims, including a brief summary of each party's factual and legal positions. The conference statement, documents and information contained therein may be disclosed only with the consent of the producing party.

(c) Sanctions. Failure to submit the conference statements, liability and damages documents within the time designated shall result in the imposition costs of sixty dollars (\$60.00) pursuant to Fed. R. Bankr. P. 7016 and Fed. R. Civ. P. 16(f) payable to the Clerk of the Court, unless the Mediator waives the imposition of costs for good cause shown.

(d) Presence of Parties, Evidence. A party is required to attend or be present at a mediation hearing, unless excused totally, or in part, by the Mediator. No testimony shall be taken or permitted of any party.

(e) Mediator's Report. Within ten (10) days following the mediation, the Mediator shall file a report on a form provided by the Clerk indicating whether all required parties were present. The report should also indicate: (a) whether the case settled at the conclusion of the conference; (b) whether the Mediation was continued with the consent of the parties; and (c) whether the Mediation was terminated without a settlement. No other information shall appear on the Mediator's report nor, without the consent of all parties, shall any other or additional report or communication regarding the status of the Mediation be provided by the Mediator to the Presiding Judge.

(f) Notification of Settlement. When cases are settled or otherwise disposed of before the mediation conference date, it is the duty of plaintiff's counsel to notify immediately the ADR Coordinator of the disposition of the case. If the parties' notice of the disposition of a case is given to the ADR Coordinator at least seven (7) days before the date for the mediation conference, any fees sent to the Clerk of the Court, and payable to the mediators, shall be returned. The parties are responsible for Court and Mediator fees.

(g) Preparation of Judgment. If the mediation results in a settlement of the dispute, the plaintiff's counsel shall prepare a judgment, approved as to form by opposing counsel for entry by the Court.

Rule 24: The provisions of Rule 24 of the Local Rules of the United States District Court for the Middle District of Tennessee pertaining to early neutral

evaluation are adopted.

RULE 24
EARLY NEUTRAL EVALUATION

(a) Purpose: The Early Neutral Evaluation ("ENE") proceeding is conducted by an experienced, objective and neutral attorney, called an evaluator, who generally meets with the parties early in their case to evaluate the case's strengths and weaknesses. Unlike mediation, the Early Neutral Evaluator focuses upon an evaluation of the merits of the claims, defenses, and/or counterclaims, and only with the parties' consent, attempts to negotiate a settlement. ENE differs from non-binding arbitration in that the evaluator does not render a written decision or declare the prevailing party.

(b) Procedure:

(1) Within ten (10) days of the Order of reference, or within the time limits of the Court's Order of Reference, the ADR Coordinator in consultation with the evaluator and counsel for the parties shall fix a specific time, date and place for the evaluation conference. The evaluation session shall be held in a suitable neutral setting, e.g., at the office of the evaluator or in the courthouse. The ADR Coordinator shall provide notice to the parties of the time, date and place for the evaluation conference.

(2) Written Evaluation Statements: No later than five (5) calendar days prior to the evaluation conference each party shall submit directly to the Evaluator, a written evaluation statement. The statement shall include a summary of the party's view of the law as to theory of liability or defense, factors compelling or blocking settlement, status of discovery, and identification of any essential or concerned third parties. Each party shall state whether any settlement offer has been made and the terms thereof. Such statements shall not exceed 15 pages (not counting exhibits and attachments). The written evaluations shall not be filed with the court and shall not be shown to the assigned Judge. The conference statement, documents and information contained therein may be disclosed only with the consent of the producing party.

(c) Attendance at the Evaluation Session. The parties must attend the evaluation session unless excused by written permission of the assigned evaluator. This requirement reflects the court's view that one of the principal purposes of the evaluation session is to afford litigants an opportunity to articulate their positions and to hear, first hand, both their opponent's version of the matters in dispute and a neutral assessment of the relative strengths of the two sides' cases. A party other than a natural person (e.g., a corporation or association) satisfies this attendance requirement if it is represented at the session by a person (other than outside or in-house counsel) with authority to enter stipulations (of fact, law, or procedure) and to bind the party to the terms of a settlement. In cases involving insurance carriers, representatives of the insurance companies, with the authority to settle, shall attend the evaluation session.

(1) A party that is a governmental entity need not have present at the proceeding the persons who would be required to approve a settlement before it could become final (e.g., the members of a city council or the chief executive of a major agency), but must send to the proceeding a representative who is knowledgeable about the facts of the case and the governmental entity's position.

(2) The evaluation conference may proceed as set forth in Appendix 3 to these Rules. Each party shall be accompanied at the evaluation by the lawyer expected to be primarily responsible for handling the trial of the action. A party or lawyer will be excused from attending the evaluation session only upon good cause shown to the assigned evaluator. Any such shall set forth all considerations that support the request. A party or lawyer who is excused from appearing in person at the session shall be available to participate by telephone.

(d) After the evaluation conference, any agreement of the parties as to stipulations, discovery, or the matters relating to case management shall be reduced by the parties to an Order for entry by the assigned ~~{District Judge or Magistrate Judge.}~~ Bankruptcy Judge.

Rule 25: The provisions of Rule 25 of the Local Rules of the United States District Court for the Middle District of Tennessee pertaining to non-binding arbitration are adopted.

RULE 25

NON-BINDING ARBITRATION

- (a) Purpose: The purpose of non-binding arbitration is to provide the parties with a brief written decision by an experienced attorney on the merits of the action that declares the prevailing party and states the amount of damages or other necessary relief that should be awarded to the prevailing party. The arbitrator's decision is non-binding.
- (b) Conference Statement: At least five (5) days prior to the date of the arbitration conference, counsel for the parties shall file with the Arbitrator, a written analysis of their claims or defenses, as well as key or critical documents in support of their respective positions. Counsel shall serve these papers upon opposing counsel contemporaneous with the filing of these papers.
- (c) Presence of the Parties: The procedure for this nonbinding arbitration may be as suggested in Appendix 4 to these Rules. Unless otherwise excused by the Arbitrator in writing, all parties, or party representatives, and any required claims professionals (e.g., insurance adjusters) shall be present at the Arbitration Conference with full authority to negotiate a settlement. A party that is a unit of government need not have present at the proceeding the persons who would be required to approve a settlement before it could become final (e.g., the members of a city council or the chief executive of a major agency), but must send to the proceeding a representative who is knowledgeable about the facts of the case and the governmental unit's position. Failure to comply with the attendance requirements may subject a party to sanctions by the Court, pursuant to Fed. R. Civ. P. 16(f).
- (d) Incorporation of Arbitration Statutes: Arbitration conferences under this rule shall be governed by the provisions of 28 U.S.C. §§ 651 through 658 that are incorporated herein by reference.

Rule 26: The provisions of Rule 26 of the Local Rules of the United States District Court for the Middle District of Tennessee pertaining to Rule 68 offers of judgment are adopted.

RULE 26

RULE 68 OFFERS OF JUDGMENT

- (a) The Court hereby incorporates by Local Rule, the following legal principles that are derived from precedents of the Supreme Court and Sixth Circuit on Fed. R. Civ. P. 68. The purposes of this Local Rule are to promote the use of Fed. R. Civ. P. 68 that authorizes an offer of judgment by a party against whom a claim is asserted and to encourage the compromise and settlement of litigation.
- (b) Under Rule 68, a party may offer to have judgment entered based upon a recommended settlement figure of an arbitrator, or evaluator, or at the conclusion of an unsuccessful mediation. Such a party may make an offer of judgment at anytime up to ten (10) days prior to trial. A defendant can make a Rule 68 offer of judgment on any counterclaim or cross-claim asserted against the plaintiff.
- (c) If the adverse party rejects the offer of judgment and if the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the post-offer costs incurred by the offeror after the offer was made. This provision, in essence, shifts the risk of going forward with the lawsuit to the offeree who becomes exposed to the prospects of being saddled with the substantial expense of trial.
- (d) (1) Costs under Fed. R. Civ. P. 68, includes all costs that may be awarded under a relevant federal statute giving rise to the action or claim. Thus, absent congressional expressions to the contrary, where the underlying federal statute governing the action defines costs to include attorneys' fees, such fees shall be included as costs for the purpose of Rule 68. For example, Congress expressly included attorneys' fees as costs available to a plaintiff in a 42 U.S.C. § 1983 suit, and such fees are subject to the cost shifting provisions of Rule 68.
- (2) If, in a federal action that provides for an award of attorney's fees to the prevailing party, the plaintiff rejects an offer of judgment under Rule 68, proceeds to trial and wins a judgment less favorable than the offer, the defendant is not liable for the plaintiff's attorney's fees, even though the federal statute awards to the prevailing party fees as a part of costs. Thus, the plaintiff in such a case faces an additional risk by rejecting that offer of judgment, because although plaintiff may reject the offer and then subsequently prevail on the merits of the case, if plaintiff receives a less favorable judgment at trial than defendant's offer, plaintiff would then be required to bear his or her own attorney's fees which but for the defendant's offer of judgment, would not have been permissible under the applicable statute.
- (3) Where an offer of judgment has been rejected and the subsequent award is less than the offer, the District Court must award costs to the party making the offer.

(4) Where the offer of judgment is accepted, the Clerk is required to enter judgment under Rule 68 that is deemed a Final Order of Judgment subject to appeal.

(5) A Rule 68 judgment is deemed a consent judgment and will only be altered upon a showing of an existence of fraud or a mutual mistake of fact.

(6) Where the issue of liability has been determined by summary judgment or by any other proceeding, either party may make an offer of judgment under Rule 68.

(7) In order for an offer of judgment to be effective under Rule 68, such offers shall be reduced to writing. If the offer of judgment recites the costs, or specifies an amount for costs, and the plaintiff accepts the offer, judgment will be deemed necessarily to include costs. If the offer does not expressly state that costs are included in the offer and an amount for costs is not specified, the Court will be obliged by the terms of Rule 68 to include an additional amount which, in its discretion, it determines to be sufficient to recover the costs of the action. In either case, however, the offerer shall be deemed to agree that judgment be entered against the offerer, both for damages caused by the challenged conduct and costs of the action.

(8) Any acceptance of an offer of judgment must be unconditional, but a rejection of an offer does not preclude a subsequent offer.

Rule 27: The provisions of Rule 27 of the Local Rules of the United States District Court for the Middle District of Tennessee pertaining to confidentiality and restrictions on the use of information are adopted.

RULE 27

CONFIDENTIALITY AND RESTRICTIONS ON THE USE OF INFORMATION

(a) Confidentiality. All ADR proceedings under these Rules and matters relating thereto, including statements made by any party, attorney, or other participant, are deemed confidential and are inadmissible as evidence to the same extent as discussions of compromise and settlement are inadmissible under Federal Rule of Evidence 408. Any statement at an ADR proceeding may not be reported, recorded, placed into evidence, or made known to the assigned Judge, or construed for any purpose as an admission against interest.

(b) Subpoenas. Neither the parties to an ADR proceeding nor any other person in any forum shall attempt to subpoena an ADR panel member or any documents produced or created in connection with, and for the purpose of ADR proceedings without first obtaining leave of this Court to do so.

(c) Duty of ADR Panel Member. ADR panel members shall not divulge the details of the information imparted to them in confidence in the course of an ADR proceeding without the consent of the parties, except as otherwise may be required by law. In the absence of a statute to the contrary, an ADR Panel member must treat information revealed in an ADR proceeding as confidential, except for the following:

(1) Information that is statutorily mandated to be reported; or

(2) Information that the parties agree may be disclosed; or

(3) Information that, in the judgment of the ADR Panel member, reveals a danger of serious physical harm either to a party or to a third person.

(d) Mediators, Arbitrators and Evaluators shall maintain the confidentiality in the storage and disposal of records and shall render anonymous all identifying information when materials are used for research, training or statistical compilations.

9036-1 *Electronic Notice*

Anyone wishing to receive electronic or facsimile notice in lieu of notice by mail from the Clerk of the commencement of the case, the entry of the discharge order, or scheduled hearings, shall complete the form in Appendix J and return it to the Clerk. Submitting the form in Appendix J to the Clerk shall constitute a request pursuant to Fed. R. Bankr. P. 2002(g) and a waiver of any right to receive notice by mail of the commencement of the case, the entry of the discharge order, or

scheduled hearings.

9070-1 *Exhibits*

The provisions of the Local Rules of the District Court pertaining to exhibits are included in LBR 9029-3-Rule 14.

9072-1 *Orders - Proposed*

The provisions of the Local Rules of the District Court pertaining to proposed orders are included as modified in LBR 9029-3-Rule 8.

9075-1 *Emergency Orders*

a. **Obtaining Emergency Relief.** Emergency motions and orders are those rare matters requiring action on less than three (3) days' notice.

- (1) **Emergency Motion.** The emergency motion must be filed to the attention of the Clerk or the Chief Deputy. The motion must include or be accompanied by a declaration under penalty of perjury (the "Declaration") that justifies the setting of a hearing or entering of an order on an emergency basis. The Clerk shall not expedite an emergency motion filed without the Declaration supporting the request.
- (2) **Proposed Order Setting Hearing.** A proposed order shall be submitted as a separate document with appropriate blanks for the Clerk to insert the date, time and location of the hearing and indicating the parties to whom notice is to be given.
- (3) **Scope of Notice Required.** The movant shall give notice by telephone or such other means as is reasonably calculated to give equally prompt notice of the motion and Declaration to any respondent identified in the motion, respondent's counsel, if known, the debtor, debtor's attorney, the trustee, the trustee's attorney, the United States Trustee, and any committee and its counsel. If the motion concerns the use, sale or lease of property under 11 U.S.C. § 363, notice shall also be given to any secured party, co-owner or other party with an interest in the property or matter at issue.
- (4) **Proof of Notice to be Presented with the Motion.** Movant must present to the Clerk at the time the motion is filed a declaration of the efforts to notify opposing parties and their counsel. The Clerk shall not expedite a motion filed without proof of notice.

b. **Motions to be Heard on Shortened Notice.** For cause shown, a party may request a non-emergency motion be heard on notice shorter than would otherwise be required by the

Federal Rules of Bankruptcy Procedure or by the Local Rules.

- (1) **Obtaining Shortened Notice Hearing Date.** The motion to shorten time must be filed to the attention of the Clerk or the Chief Deputy and shall include or be accompanied by a Declaration under penalty of perjury that justifies the setting of a hearing on shortened notice. The Clerk shall not expedite the motion without the Declaration supporting the request.
- (2) **Proposed Order Shortening Time.** A proposed order shortening time shall be presented as a separate document. It shall specify the parties to whom notice is to be given, the nature and timing of the proposed shortened notice, which must not be less than seventy-two (72) hours, and leave appropriate blanks for the Clerk to insert the date and time of hearing, and the date for serving and filing opposition papers.
- (3) **Scope of Notice Required.** Movant shall give notice of the order shortening time and the substance of the motion that is to be heard to all parties to whom notice is required to be given by the *Federal Rules of Bankruptcy Procedure* or by the Local Rules.
- (4) **Proof of Notice.** At or before any hearing on shortened notice, the moving party shall file a declaration of efforts to give notice consistent with the following:
 - (i) **Telephonic Notice.** To make a good faith effort to advise all other parties and their counsel, if known, by telephone or by such other means as is reasonably calculated to give equally prompt notice of the date, time and substance of the motion being heard on shortened notice; and
 - (ii) **Delivery of Papers.** To deliver copies of all moving papers to all parties as soon as practicable.